

# City of Bryan Zoning Ordinance



**CITY OF BRYAN**  
*The Good Life, Texas Style.™*

## **Chapter 130** **Bryan Code of Ordinances**

Updated March of 2006



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### **Section 130-1. Enacting clause.**

That this comprehensive zoning ordinance, also known as the zoning ordinance, of the city, is passed and approved on December 11, 1989, together with the official zoning map to read as set out herein.

### **Section 130-2. Purpose.**

The zoning regulations and districts as herein established have been made in accordance with adopted guiding principles for the purpose of promoting the health, safety, morals, and general welfare of the city. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic, and other dangers; to ensure adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its suitability and compatibility for the particular uses specified; and with a view to conserving the value of buildings and neighborhoods, and encouraging the most appropriate use of land throughout the city.

## Section 130-3. Definitions.

For the purposes of this chapter, the following terms, phrases, and words, shall have the meaning ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words used in the plural number include the singular. Definitions not expressly prescribed herein are to be determined according to customary usage.

*Accessory dwelling unit* shall mean a subordinate structure located on the same lot or parcel as the main structure which is incidental to the main use of the structure and is used as a residence.

*Accessory structure* shall mean a subordinate structure or a portion of the main structure located on the same lot as the main structure, the use of which is incidental to that of the dominant use of the structure or premises. Accessory structures may include parking garages, adjacent farm structures, home workshops and tool houses, storage sheds, home greenhouses. Carports as defined by this chapter are not considered to be accessory structures.

*Accessory use* shall mean a use customarily incidental, appropriate and subordinate to the principal use of land or building and located upon the same lot therewith.

*Adult entertainment* shall mean those land uses involved in providing entertainment to a person or persons as defined by the following:

(1) *Adult bookstore* shall mean an establishment that has a substantial portion of its stock-in-trade and offers for sale any one or more of the following:

a. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videocassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities; or

b. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

(2) *Adult bar* shall mean a nightclub, bar, restaurant, or similar establishment that regularly features live performances such as dancing that is characterized by the exposure of any portion of the human form other than the pubic region. Display of the pubic region, buttocks, or human genitals is not permitted.

(3) *Adult theater* shall mean an establishment where films, motion pictures, videocassettes, slides, or other photographic reproductions are presented in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities, or specified anatomical areas.

*Airport* shall mean a place where an aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair and various accommodations for passengers.

*Alley* shall mean a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a public street.

*Amusement arcade (video arcade)* shall mean any building, room, place or establishment of any nature or kind and by whatever name called, where more than two amusement devices are operated for a profit, whether the same be operated in conjunction with any other business or not, including but not limited to such amusement devices as coin-operated pinball machines, video games, electronic games, shuffle boards, pool tables or other similar amusement devices. Provided, however, the term "amusement device", as used herein, shall not include musical devices, billiard tables which are not coin-operated machines designed exclusively for children and devices designed to train persons in athletic skills or golf, tennis, baseball, archery or other similar sports.

*Antenna* shall mean an instrument or device consisting of wires, poles, rods, or reflecting discs designed for transmitting or receiving any portion of the radio, microwave, or electromagnetic spectrum.

*Antenna (commercial)* shall mean an antenna primarily used for commercial broadcasting. A satellite dish in excess of 12 feet in diameter shall be considered a commercial antenna. A microwave transmitting tower is also a commercial antenna.

*Antenna (noncommercial)* shall mean an antenna used for amateur radio, CB radio, or TV reception. A satellite dish antenna not to exceed 12 feet in diameter shall also be considered as a noncommercial radio antenna.

*Apartment building.* See "Dwelling, multiple-family."

*Automobile* shall mean a self-propelled mechanical vehicle designed for use on streets and highways for the conveyance of goods and people including but not limited to the following: passenger cars, trucks, buses, motor scooters and motorcycles.

*Automobile parking lot or garage* shall mean an area or structure designed for the parking of motor vehicles.

*Automobile rental* shall mean storage, leasing or renting of automobiles, motorcycles, and light load vehicles, but not including commercial or industrial vehicles or equipment.

*Automobile repair* shall mean general repair or reconditioning of engines, air-conditioning systems and transmissions for motor vehicles; wrecker service; collision services, including body, frame or fender straightening or repair; customizing; painting; vehicle steam cleaning; undercoating and rust proofing; and other similar uses. Automobile repair shall also include minor repair or replacement of parts, tires, tubes, and batteries; diagnostic services; minor motor services such as grease, oil, spark plug, and filter changing; tune-ups; emergency road service; replacement of starters, alternators, hoses, brake parts; automobile washing and polishing; performing state inspections and making minor repairs necessary to pass said inspection; normal servicing of air-conditioning systems, and other similar minor services for motor vehicles except heavy load vehicles.

*Automobile sales* shall mean the retail sale of new or used automobiles or light load vehicles.

*Automobile service station* shall mean any building, land area or other premises, or portion thereof, used or intended to be used for the retail dispensing or sales of automobile fuels, lubricants, and automobile accessories, including those operations listed under minor automobile repair. Vehicles which are inoperative or are being repaired may not remain parked outside an automobile service station for a period greater than seven days.

*Bed and breakfast* shall mean a dwelling occupied as a permanent residence by an owner or renter which serves breakfast and provides sleeping accommodations in no more than five rooms for transient guests for compensation. Breakfast is to be provided for overnight guests only. Bed and breakfast facilities are permitted to facilitate special events, such as wedding receptions, dinner parties, and the like.

*Block* shall mean a tract or parcel of land designated as such on a duly recorded plat and may be entirely surrounded by public streets or by a combination of public streets and public parks, cemeteries, railroad right-of-way, or natural or manmade physical features (e.g., ditches, gullies, ridges, etc.) that disrupt what would otherwise be an unbroken landscape.

*Boardinghouse (lodging house)* shall mean a dwelling other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals are provided for three persons or more, but not exceeding 20 persons on a weekly or monthly basis.

*Buffer* shall mean a land area used to visually separate one use from another or to block or mitigate the effects of noise, lights or other nuisances. It may include required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways.

*Cabinet shop* shall mean a structure use to fabricate cabinetry for retail sale.

*Carport* shall mean a roofed structure open on a minimum of two sides designed or used to shelter cars, boats, recreational vehicles or other motor vehicles.

*Carwash* shall mean structure used to wash motorcycles, automobiles and light load vehicles.

*Cemetery* shall mean property used for the interring of the dead, including columbarium, crematories, mausoleums and mortuaries.

*Certificate of occupancy* shall mean an official certificate issued by the city through the chief building official which indicates conformance with or approved conditional waiver from the zoning regulations and authorizes legal use of the premises for which it is issued; may be referred to as an occupancy permit.

*Change of use* shall mean any use which differs from the previous use of a structure or site.

*Charitable use* shall mean a use that provides essential goods or services, such as food, limited or emergency housing, clothing, counseling, aid, or assistance to those in need, for no fee or compensation.



*Chief building official* shall mean the official or other designated authority charged with the administration and enforcement of the building code and related regulation.

*Child care:*

(1) *Child care--Class A* shall mean any detached dwelling which receives six or less children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, for regular periods of time and for compensation, excluding the caretaker's own children. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is considered a home occupation.)

(2) *Child care--Class B* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to at least seven and not more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

(3) *Child care--Class C* shall mean a building or structure where care, protection, and supervision is provided, on a regular schedule, at least twice a week to more than 12 children under the age of 14 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians. The term "child care" shall not include overnight lodging, medical treatment, counseling or rehabilitative services and does not apply to any school. (This is not considered a home occupation.)

*City* shall mean the Municipal Corporation, City of Bryan, Texas.

*City council* shall mean the duly and constitutionally elected governing body of the City of Bryan, Texas.

*Commercial amusement (indoor)* shall mean an amusement or entertainment enterprise wholly enclosed and operated within a building. This includes, but is not limited to, bowling alleys, skating rinks, billiards or pool halls, indoor tennis courts, gymnasiums, and swimming pools.

*Commercial amusement (outdoor)* shall mean an outdoor area or structure, open to the public which provides entertainment or amusement for a fee or admission charge, including but not limited to batting cages, miniature golf, go-cart tracks, drive-in theaters, water slides and carnivals.

*Common elements* shall mean, when applied to condominium, townhouse or similar developments, shall include:

(1) *General common elements* means and includes:

- a. The land, whether leased or in fee simple, on which the building stands;
- b. The foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;
- c. The basements, flat roofs, yard, and gardens, except as otherwise provided or stipulated;

- d. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;
  - e. The compartment of installation of central services such as power, light, gas, cold and hot water, refrigeration, central heating, reservoirs, water tanks and pumps, swimming pools, and the like;
  - f. The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and
  - g. All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime.
- (2) *Limited common elements* means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways, and elevators, sanitary services common to the apartments of a particular floor, and the like.

*Commons* shall mean an open, unobstructed space, bounded on more than two sides by the walls of a building. An inner court is entirely surrounded by the exterior walls of a building. An outer court has one side open to a street, alley, yard, or other permanent open space.

*Comprehensive plan* shall mean the term "comprehensive plan" or "municipal development plan" and adoptions, amendments, or supplements thereto, which has or have been adopted by the planning and zoning commission and the city council shall be used as a guide for future development of the city and its surrounding area.

*Conceptual plan* shall mean the initial plan layout determined by the developer. The plan shall be used as a tool to determine the requirements of the project and an overall design scheme.

*Concrete or asphalt batching plant (permanent)* shall mean a permanent manufacturing facility for the production of concrete or asphalt.

*Concrete or asphalt batching plant (temporary)* shall mean a temporary manufacturing facility for the production of concrete or asphalt during construction of a project, and to be removed when the project is completed.

*Condominium* shall mean in a condominium each dwelling unit owner owns as his or her fee estate the space that his or her unit occupies. This is the space lying between the interior surface of the unit sides and between the floor and the ceiling. The remainder of the building and the land are called "common elements" or "common area." Each unit owner holds an undivided interest in the common elements and limited common elements as defined in the Texas Condominium Act (V.T.C.A., Property Code Chapter 81).

*Construction yard (temporary)* shall mean a storage yard or assembly yard for building materials and equipment directly related to a specific construction project and subject to removal at completion of construction.

*Country club* shall mean a land area and buildings which may include a golf course, clubhouse, dining room, swimming pool, tennis courts and similar recreational or service uses available only to members and their guests.

*County* shall mean Brazos County, Texas.

*County commissioner's court* shall mean the duly and constitutionally elected governing body of Brazos County, Texas.

*Covenant (deed restriction)* shall mean a private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded. Deed restrictions are not enforceable by the city.

*Density* shall mean levels of concentration or activity in uses such as residential, commercial, industrial, recreation, or parking.

*District* shall mean any section or sections of the city for which the regulations governing the use of land and the use, density, bulk, height and coverage of buildings and other structures are uniform for each class or kind of building therein.

*Dormitory* shall mean a building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, convent, monastery, or other similar institutional use.

*Duplex* shall mean a dwelling with two attached living units designed to be occupied by two households living independently of each other.

*Dwelling unit* shall mean a structure or portion which is designed or used for residential purpose, including detached dwellings, two-family, attached dwellings, multifamily dwellings, rooming houses and boardinghouses, fraternities, sororities, dormitories, manufactured homes, and modular dwellings, but not including hotels or motels.

*Easement* shall mean land reserved for the use of the public by the grantor, in which to install and maintain utility lines, drainage ditches or channels, or for other city or public services; the ownership or title to the land encompassed by the easement being retained by the owner. The city may specify that no building or part of a building or other permanent structure or fence, in case of a drainage easement, may be located within the limits of the easement.

*Engineer* shall mean a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act (V.T.C.A., Occupations Code Chapter 1001), as heretofore or hereinafter amended, to practice the profession of engineering.

*Essential municipal uses* shall mean facilities related to services traditionally provided by local government and/or private utilities, necessary for the furnishing of adequate service by such utilities or city municipal departments for the general public health, safety, convenience, and welfare. Essential municipal uses include, but are not limited to the following: communication

systems, city parks, schools, city fire protection, city police substations, power substations, city or private utility systems and accessories thereto, including, but not limited to: city water storage tanks, pumps, lift stations, and other similar accessories. Essential municipal uses are permitted in all zoning districts; however, these facilities must comply with all other requirements of the zoning ordinance as well as the site development review ordinance and subdivision ordinance, or seek a variance from the planning and zoning commission. Essential municipal uses which include aboveground utility accessory structures, such as substations, sewer lift stations, water pump stations, treatment plants, storage towers and the like are required to observe screening and buffering requirements as described in section 130-31.

*Extraterritorial jurisdiction (ETJ)* shall mean under the terms of V.T.C.A., Local Government Code Chapter 42, the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for a distance of 3 1/2 miles. In the event that the ETJ of the city overlaps an area within the ETJ of one or more other cities, such overlap may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

*Fabrication* shall mean the manufacturing from standardized parts of a distinct object differing from the individual components.

*Family* shall mean any number of individuals living together in a single dwelling unit in which not more than four individuals are unrelated by blood, marriage or adoption. Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.

*Farm equipment sales and service* shall mean a building or open area, other than a right-of-way or public parking area, used for the display, sale, rental or storage of farm equipment.

*Feed store* shall mean a building used for the display and sale of livestock feed and affiliated equipment.

*Firewall* shall mean a fire resistive wall, having protective openings, which restricts the spread of fire and extends continuously from the foundation to or through the roof.

*Fitness center* shall mean health club or similar building that provides activities and facilities such as aerobic exercises, boxing, running and jogging, exercise equipment, game courts, swimming pool, saunas, showers, massage rooms, lockers, and ancillary indoor and outdoor recreation facilities on the same premises.

*Flea market* shall mean a periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. Flea markets differ from other retail stores or shopping centers in that there are no long-term leases between the sellers and owners or lessors

of the site and that often the sellers use their own vehicles for display or set up temporary tables for their wares.

*Floodplain* shall mean an area of land subject to inundation by a 100-year frequency flood, as shown on the FEMA floodplain map of the city.

*Fraternal organization, lodge, or service club* shall mean an organized group having a restricted membership and specific purpose related to the welfare of the members and others such as Elks, Masons, Knights of Columbus, Lions Club, Fraternity or Sorority, or a labor union.

*Fraternity and sorority houses* shall mean a building containing sleeping rooms, bathrooms, common rooms and a central kitchen and dining room maintained exclusively for fraternity or sorority members and their guests or visitors and affiliated with an institute of higher learning.

*Gaming establishment* shall mean gambling facilities or other operations featuring games of chance and bingo parlors.

*Garage, detached private*, shall mean an enclosed (on at least three sides) structure separate from the main residence used primarily for the storage of vehicles and secondarily for storage of household goods, and used solely by the occupants and their guests. Also called "enclosed parking space"

*Gasoline service or filling station*, See "Automobile service station."

*Golf course* shall mean an area of 20 acres or more improved with trees, greens, fairways, hazards, and which may include clubhouses.

*Group home/community home* shall mean to qualify as a group/community home, an entity must provide the following services to persons with disabilities who reside in the home:

- Food and shelter;
- Personal guidance;
- Care;
- Habitation services; and
- Supervision

It must be a community based residential home operated by the Texas Department of Mental Health and Mental Retardation or a community center organized under section 3.01 of the Texas Mental Health and Mental Retardation Act, or an entity subject to the Texas Non-Profit Corporation Act (Vernon's Ann. Civ. St. art. 1396-1.01 et seq.), or an entity certified by the Texas Department of Human Services as a provider under the medical assistance program serving persons in intermediate care facilities for persons with mental retardation. The home must have not more than six persons with disabilities and two supervisors residing in the home at the same time. The limitation on the number of persons with disabilities applies regardless of the legal relationship of those persons to one another. The home may not be established within one-half mile of an existing group/community home. For purposes of this definition, "person with a disability" means a person whose ability to care for himself or herself, perform manual tasks, learn, work, walk, see, hear, speak, or breathe is substantially limited because the persons has:

An orthopedic, visual, speech or hearing impairment;

Alzheimer's disease;  
Pre-senile dementia;  
Cerebral palsy;  
Epilepsy;  
Muscular dystrophy;  
Multiple sclerosis;  
Cancer;  
Heart disease;  
Diabetes;  
Mental retardation;  
Autism; or  
Emotional illness

*Halfway house* shall mean a home for not more than four persons who have demonstrated a tendency toward alcoholism, drug abuse, antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, all of which live together as a single housekeeping unit.

*Health authority* shall mean the city health officer, state department of health or county health official.

*Heliport* shall mean an area of land or water or a structural surface which is used, or intended for use, for the landing and taking off of helicopters, and any appurtenant areas which are used, or intended for use for heliport buildings and other heliport facilities.

*Helistop* shall mean the same as a heliport, except that no refueling, maintenance, repairs or storage of helicopters is permitted.

*Home occupation* shall mean any occupation or activity conducted within a dwelling unit which is clearly incidental and subordinate to the use of the premises for dwelling purposes, provided that:

- (1) No retail business of any sort is involved.
- (2) No stock in trade is kept nor commodities sold except those made or used on the premises.
- (3) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- (4) Only members of the family residing on the premises are employed.
- (5) No equipment is used which creates offensive noises, vibrations, sound, smoke or dust, odors, heat, glare, X-ray, or electrical disturbance to radio or television. In particular, a home occupation includes the following and similar uses: artist's studio; dressmaking and millinery; limited professional practice provided no clients or customers are permitted on the premises (such as lawyer, engineer, architect, or accountant); music teaching limited to not more than two pupils at one time.
- (6) Commercial repair of automobiles shall not be permitted.

(7) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, and mounted flat against the wall of the principal building.

(8) No home occupation shall be conducted in any accessory structure.

(9) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and require no additional parking spaces beyond those required for the dwelling unit.

(10) Child care in a place of residence which receives six or less children is allowed as a home occupation.

(11) Home schools as classified by state requirements are allowed as a home occupation.

*Homeowners association (HOA)* shall mean any organized group of landowners within a developed project, with voting rights to promulgate rules and regulations over property dedicated to the ownership of the formed association.

*Industrial park* shall mean a large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

*Junkyard* shall mean an open area where wastes or used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Material shall include but are not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. An automobile wrecking yard shall be considered a junkyard.

*Kennels (commercial)* shall mean an establishment with indoor and/or outdoor pens in which more than four dogs or domesticated animals more than one year old are housed, groomed, bred, boarded, trained or sold for commercial purposes.

*Kiosk* shall mean a small, freestanding, one-story structure having a maximum floor area of 350 square feet and used for commercial purposes, such as automatic teller machines or the posting of temporary information and/or posters, notices and announcements. If a kiosk is to be occupied, it shall have a minimum floor area of 25 square feet.

*Laundromat (Self-Serve Washateria)* shall mean a facility where patrons wash, dry or dry clean clothing and other fabrics in machines operated by the patron.

*License, Mobile Home Park* shall mean an authorization, or written evidence thereof, issued by the city, to maintain and operate a manufactured/mobile home park.

*Lot of record* shall mean a lot which is part of a subdivision, the plat of which has been recorded in the office of the county clerk of the county or a lot subdivided by metes and bounds description prior to May, 1967.

*Machine shop* shall mean a workshop where power-driven tools are used for making, finishing, or repairing machines or machine parts.

*Main structure* shall mean the structure or structures on a lot which are occupied by the primary use.

*Manufactured home* shall mean a HUD-Code manufactured home or a mobile home and collectively means and refers to both. The term "HUD-Code manufactured home" shall mean a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems of the home. The term does not include a recreational vehicle as that term is defined by 24 CFR 3282.8(g). For use in this chapter, the terms "manufactured home" and "manufactured housing" shall be synonymous with HUD-Code manufactured home.

*Manufactured home display and sales* shall mean the offering for sale, storage, or display of trailers or mobile homes on a parcel of land but excluding the use of such facilities as dwellings either on a temporary or permanent basis.

*Manufactured housing land lease community* shall mean a residential development typified by single ownership of the land with the development, with the landowner retaining the rights of ownership. Home sites within the community are leased to individual homeowners, who retain customary leasehold rights for the placement and occupancy of individual manufactured homes (this definition excludes mobile homes).

*Manufactured/mobile home park* shall mean any lot, block, tract or parcel of contiguous lots, blocks, tracts or parcels of land, under common ownership, which has been so designed and improved that it contains two or more manufactured/mobile homes or manufactured/mobile home lots available for lease or rent to the public and for the placement of mobile homes and/or manufactured homes for occupancy.

*Manufacturing* shall mean manufacturing of finished products or parts, predominantly from previously prepared materials, including fabrication, assembly, and packaging of such products, and incidental storage, sales and distribution of such products, but excluding basic industrial processing. Such operations shall meet the performance standards, bulk controls, and other requirements of this chapter.

*Masonry construction* shall mean exterior construction materials including brick, stone, granite, marble, concrete and other built up/tilt panels.

*Master thoroughfare plan* shall mean a plan of major and secondary streets and highways, a part of the city and adaptations, amendments, or supplements thereto as developed and adopted by the planning and zoning commission.



*Medical facilities or clinics*

- (1) *Convalescent, rest or nursing home* shall mean a health facility used for or customarily occupied by persons recovering from illness or suffering from infirmities of age, and furnished meals or continuing nursing care for compensation.
- (2) *Dental clinic or medical clinic* shall mean a facility or group of offices for one or more physicians for the examination and treatment of ill and afflicted human outpatients provided that patients are not kept overnight except under emergency conditions.
- (3) *Dental office or medical office* shall mean same as dental or medical clinic.
- (4) *Hospital* shall mean an institution providing health services primarily for human inpatient medical or surgical care for the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central services facilities, and staff offices which are an integral part of the facilities.
- (5) *Public health center* shall mean a facility primarily utilized by a health unit for providing public health services including related facilities such as laboratories, clinics and administrative offices operated in connection therewith.
- (6) *Sanitarium* shall mean an institution providing health facilities for inpatient medical treatment or treatment and recuperation making use of natural therapeutic agents.
- (7) *Massage establishment* shall mean any place of business in which massage therapy is practiced by a massage therapist, as defined and licensed by state law. Equivalent terms for "massage therapy" are massage, therapeutic massage.
- (8) *Minor emergency clinic* shall mean medical clinic which provides "walk-in" services for minor medical emergencies and may be open 24 hours per day.

*Mobile home* shall mean a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the travel mode, is eight body feet or more in width, 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems of the home.

*Model home* shall mean a detached dwelling in a developing subdivision located on a legal lot of record that is limited to temporary use as a sales office for the subdivision and to provide an example of the dwellings which have been built or which are proposed to be built in the same subdivision.

*Modular building/housing (industrialized building)* shall mean a structure or building module as defined, under the jurisdiction and control of the Texas Department of Licensing and Regulation and the Texas Industrialized Building Code Council and that is installed and used by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used on a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term does not include a mobile/manufactured home as defined in the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code Chapter 1201).

*Motel or hotel* shall mean a building or group of buildings designed for and occupied as a temporary dwelling place for individuals and providing four or more rooming units where customary hotel services such as linen, maid service, telephone, and upkeep of furniture is provided.

*Motorcycle* shall mean a two-wheeled self-propelled vehicle having one or two saddles or seats, and which may have a sidecar attached. For purposes of this chapter, motorbikes, motor scooters, mopeds, three or four wheel all terrain vehicles (ATV's), and similar vehicles are classified as motorcycles.

*Motorcycle sales service* shall mean the display, sale and servicing, including repair work, of motorcycles.

*Multiple-family dwelling* shall mean three or more attached dwelling units designed to be occupied by three or more households living independently of one another, exclusive of hotels or motels.

*Municipal services and support facilities* shall mean a multi-use complex or facility owned and operated by the city to facilitate the services essential to providing and maintaining municipal services. Uses within the complex or facility include, but are not limited to the following: housing and maintenance of city owned vehicles, trucks and other equipment, storage of materials (interior and exterior), workshops, fueling stations, and associated offices. Municipal services support facilities are allowed by conditional use in all zoning districts, and are required to observe screening and buffering requirements as described in section 130-31.

*Nightclub* shall mean an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food and/or dancing may also be provided.

*Nonconforming use* shall mean a building, structure, or use of land lawfully occupied at the time of the effective date of the ordinance from which this chapter is derived or amendments thereto, but which does not conform to the use regulations of the district in which it is situated.

*Non-paid parking for nonresidential uses* shall mean parking spaces that are appropriate and incidental to uses other than residential dwellings that are not contracted or leased for commercial gain. This term does not include paid commercial parking lots or garages.

*Nonresidential district* shall mean district where the primary purpose is for uses other than residential and includes the O, C, R, DT-S, DT-C, I and MU-2 zoning districts.

*Nursery (greenhouse)* shall mean an establishment, including a building, part of a building or open space, for the growth, display and/or sale of large plants, shrubs, and trees, and other materials used in indoor or outdoor planting.

*Nursing home (retirement home)* shall mean a home where elderly or handicapped persons are provided with lodging, meals and nursing care.

*Occupancy* shall mean the use or intended use of the land or buildings by proprietors or tenants.

*Office, professional and general administrative* shall mean a room or group of rooms used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, and business offices of public utilities, organizations and associations, but excluding medical offices.

*Office-showroom/warehouse* shall mean an establishment with a minimum of 75 percent of its total floor area devoted to storage and warehousing, but not accessible to the general public. The remaining area may include retail and wholesale sales areas, sales offices, and display areas for products sold and distributed from the storage and warehousing areas.

*Open space* shall mean an open area or recreational facility which is designed and intended to be used for outdoor living and/or recreation. An area of common usable open space shall include landscaping, walks, recreational facilities, water features and decorative objects such as artwork or fountains. Usable open space shall not include: rooftops; accessory buildings, except those portions of any building designed specifically for recreational purposes; parking areas; driveways; turnaround areas; or the right-of-way or easement for streets or alleys. When used in planned development or similar development proposals, the term "open space" shall apply to both private and common ownership property designated for outdoor living and/or recreation.

*Open storage (also outside storage)* shall mean the keeping, displaying, or storing, outside a building, of any new or used goods, material, merchandise, or equipment on a lot or tract for more than 24 hours.

*Parking lot* shall mean an off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles

*Patio home (zero lot line dwelling)* shall mean a detached dwelling located on an individual lot with one wall coincident with a side lot line and a patio or side yard oriented toward the opposite side of the dwelling entirely enclosed by the dwelling wall, lot line wall of the neighboring dwelling, or other fences and walls. Adjoining lots shall not have common zero lot lines.

*Pawnshop* shall mean an establishment where money is loaned on the security of personal property pledged in the keeping of the owners (pawnbroker). Retail sales also take place of primarily used items.

*Person* shall mean any individual, association, firm, corporation, governmental agency, partnership or political subdivision.

*Personal service shop* or *custom personal services* shall mean establishments primarily engaged in providing services generally involving the care of the person or his or her apparel including but not limited to barbershops and beauty shops, dressmaking, shoe shining, dry-cleaning and laundry pick-up stations, tailor or seamstress, and salons/health clubs (no outside storage).

*Place of worship* shall mean a church, synagogue, temple, mosque, or other facility that is used on a regular basis for prayer by persons of similar belief.

*Planned development district* shall mean area of land controlled by landowner or landowners to be developed as a single entity for a number of dwelling units, and/or commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk or type of dwelling, or commercial or industrial use, density, lot coverage and required open space to the regulations established in other sections of this chapter.

*Planning and zoning commission* shall mean a board, comprised of citizens of Bryan, Texas, and appointed by the city council as an advisory body, authorized to recommend changes in the zoning and other planning functions as delegated by the city council.

*Plat* shall mean a map of a town, section, or subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, etc., drawn to scale.

*Police station* shall mean a protection center operated by the city, serving as the headquarters for the city law enforcement officers and their support staff, including administrative offices, storage of equipment, temporary detention facilities, and open or enclosed parking of patrol vehicles; excluding, however, correctional institutions.

*Police substation* shall mean a protection center operated by the city, serving as a neighborhood center for the city law enforcement officers, including limited parking for patrol vehicles. Police sub-stations may also serve as the residence for a city law enforcement officer.

*Portable building sales* shall mean an establishment which displays and sells structures capable of being carried and transported to another location, but not including mobile homes.

*Premises* shall mean land together with any buildings or structures situated thereon.

*Primary use* shall mean the principal or predominant use of any lot or building.

*Printing shop* shall mean an establishment which reproduces, in printed form, individual orders from a business, profession, service, industry or government organization.

*Private utility, other than listed* shall mean nonpublic utility requiring special facilities in residential areas or on public property such as heating, cooling, or communications not customarily provided by the municipality or public utilities

*Professional office* shall mean a detached dwelling or multifamily structure used solely for the provision of executive, management, or legal services. Typical uses include engineering, architectural, and legal offices. Medical offices are excluded from this definition. No more than three personnel per dwelling unit are permitted to work in the office and the hours of operation are limited to 8:00 to 6:00 Monday through Friday and 10:00 to 5:00 Saturday and Sunday.

*Railroad track and right-of-way* shall mean the right-of-way and track used by a railroad, but not including railroad stations, sidings, team tracks, loading facilities, dockyards, or maintenance areas.

*Reception hall* shall mean any building, land area or other premises, or a portion thereof, which may be rented for social functions.

*Recreational center/community center* shall mean a place designed and equipped for recreational, social, educational, cultural, and religious activities, open to the public or a designated part of the public, usually owned and operated by a public or nonprofit group or agency.

*Recreational vehicle (RV) park* shall mean any site upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles designed to be used by the general public as temporary living quarters for recreation or vacation purposes.

*Recycling center* shall mean a facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand within an enclosed building or area.

*Recycling collection point* shall mean an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is permitted. Such a facility would generally be located in an easily accessed area and shall be reasonably free from noxious odors, rodents, insects, and refuse.

*Replat* shall mean the process of amending or vacating a recorded plat.

*Reserve strip or parcel* shall mean any lot, tract, parcel, strip or any other land which prohibits access from public or private tracts or parcels to land dedicated or intended to be dedicated to public use.

*Residence.* Same as a dwelling.

*Residential district* shall mean a district where the primary purpose is residential use and includes the RD-7, RD-5, MF, DT-N, SC-R and MU-1 zoning districts.

*Restaurant* shall mean a business establishment whose principal business is the selling of unpackaged food to the customer in a ready to consume state.

*Retail or service, incidental,* shall mean the rendering of incidental retailing or services incidental to the primary use. In the C-1 Office District, such uses include a barbershop or beauty shop, smoke shop, candy counter, restaurant, pharmacy or other incidental activity secondary to the primary office occupancy.

*Retail stores and shops (retail services)* shall mean an establishment engaged in the selling of goods and merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

*Right-of-way* shall mean an area or strip of land dedicated as public property on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

*Rodeo grounds* shall mean a facility that accommodates the public competition or exhibition of skills such as riding broncos or roping calves.

*Roominghouse.* See "Boardinghouse."

*Saddlery* shall mean an establishment engaged in the making and selling of tack for livestock, including but not limited to saddles and harnesses. Tanning of leather goods is prohibited within a Saddlery

*Salvage or reclamation of products (also see "Wrecking yard")* shall mean the reclamation and storage of used products or materials.

*Satellite dish antenna.*

(1) *Satellite television reception dish* shall mean a round, parabolic apparatus capable of receiving communications from a transmitter relay located in planetary orbit.

(2) *Usable satellite signals* shall mean satellite signals, from the major communication satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations or by way of cable television.

*School, private,* shall mean a school under the sponsorship of a private agency or corporation other than a public or religious agency, having a curriculum generally equivalent to public elementary or secondary schools; except all private schools where education is primarily conducted in private homes.

*School, public or parochial,* shall mean a school under the sponsorship of a public or religious agency providing elementary or secondary curriculum, but not including private trade or commercial schools.

*Screening* shall mean a method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

*Sexually oriented uses.* See "Adult entertainment."

*Sight distance triangle* shall mean a triangular-shaped portion of land established at street intersections in which no visual obstructions are erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the line of visibility of motorists entering or leaving the intersection, as defined by the American Association of State Highway and Transportation Officials.

*Site* shall mean land upon which commercial, industrial, residential or other business activity is to be done.

*Stable--Commercial* shall mean a stable used for the rental of stall space or for the sale or rental of horses or mules.

*Stable--Private* shall mean an area used solely for the owner's private purposes for the sale or keeping of horses, mules or ponies, and not kept for remuneration, hire or sale.

*Storage or wholesale warehouse* shall mean a building used primarily for the storage of goods and materials.

*Story* shall mean that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it. The average height for a story shall be defined as 12 feet.

*Story, half*, shall mean a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

*Streets:*

(1) *Arterial*. This class of streets brings traffic to or from the expressway and serves those major movements of traffic within or through the urban area that are not served by expressways. Arterials interconnect the principal traffic generators within the city as well as important rural routes. Arterials handle trips between different areas of the city and should form a reasonably integrated system. The length of the typical trip on the system should exceed one mile. The primary function of an arterial is to provide movement between principal traffic generators.

(2) *Collector*. This class of streets serves internal traffic movements within an area of the city, such as a subdivision, and connects this area with the arterial system. Collectors do not handle long through trips and are not, of necessity, continuous for any great length. In gridiron street patterns, however, a street of several miles in length may serve as a collector rather than an arterial if the predominant use is to reach the next junction with an arterial and there turn off.

(3) *Cul-de-sac*. A street having but one outlet to another street and terminated on the opposite end by a vehicular turnaround.

(4) *Dead end*. A street other than a cul-de-sac, with only one outlet

(5) *Local*. The sole function of local streets is to provide access to adjacent land and act as a connection to the collector system.

*Studio* shall mean the workshop of an artist, sculptor, photographer, or craftsperson.

*Structural alterations* shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

*Structure* shall mean any manmade construction either built or moved onto a site, affixed to the ground, and which is used to shelter, enclose, or support persons or moveable property. Driveways, patio slabs, walkways, and non-screening fences shall not be considered as structures.

*Subdivision* shall mean any division of property for which a plat is required to be approved and recorded under the provisions of V.T.C.A., Local Government Code Chapter 211; the Texas Municipal Annexation Act (V.T.C.A., Local Government Code Chapter 43); and under this chapter. The term "subdivision" shall mean the division of a lot, tract, or parcel of land situated within the corporate limits of the city, or within the city's extraterritorial jurisdiction into two or more parts, lots, plats, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or laying out any subdivision of any tract of land or any addition of the city, or for laying out suburban lots or building lots or any lots and streets, alleys, or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereupon or adjacent thereto. The term "subdivision" shall include replatting, resubdivision and, when in the context shall relate to the process of subdividing of the land or area. The term "resubdivision" shall mean the division of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines; however, it does not include the division of land for agricultural purposes in parcels or tracts of five acres or more and not involving any new street, alley or easement of access. A major subdivision is a subdivision consisting of more than one phase of development.

*Surveyor* shall mean a licensed state land surveyor or a registered professional land surveyor, as authorized by the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code Chapter 1071).

*Tattoo/body piercing studio* shall mean the workshop of a tattoo artist, and/or a facility where the piercing of body parts, other than ears, is performed for purposes of allowing the insertion of jewelry.

*Theater--Indoor* shall mean a building or part of a building devoted to the showing of motion pictures, or for dramatic, musical or live performances.

*Theater--Outdoor (amphitheater)* shall mean an outdoor area and associated structures devoted to the showing of motion pictures, or for dramatic, musical or live performances.

*Townhouse* shall mean type of dwelling unit connected to a similar structure by a common wall, and commonly (particularly in a planned unit development) sharing and owning in common the surrounding grounds.

*Trade and commercial schools* shall mean establishments, other than public or parochial schools, private primary or secondary schools, or colleges, offering training or instruction in a trade, art or occupation.

*Trailer rental* shall mean the display and offering for rent of trailers designed to be towed by light load vehicles.



*Truck and bus repair* shall mean an establishment providing major and minor automobile repair services to heavy load vehicles.

*Truck parking lot* shall mean area for parking heavy load vehicles.

*Truck sales (heavy trucks)* shall mean the display, sale or rental of new or used heavy load vehicles in operable condition.

*Truck stop* shall mean any building, land, area, or premises, or portion thereof used for the retail dispensing or sales of fuels, lubricants and accessories commonly utilized by heavy load vehicles, but not including those uses listed under major automobile repair, as applying to heavy load vehicles.

*Utility distribution/transmission lines* shall mean facilities which serve to distribute and transmit electrical power, gas and water, including but not limited to electrical transmission lines, gas transmission lines and metering stations.

*Variance* shall mean an adjustment in the application of the specific regulations of the zoning ordinance to a particular parcel of property which, because of special conditions or circumstances of hardship peculiar to the particular parcel, is necessary to prevent the property from being deprived of rights and privileges enjoyed by other parcels in the same vicinity and zoning district. Only the board of adjustment of the city can grant a variance.

*Veterinary services* shall mean an establishment, with or without outside pens or runs, where animals and pets are admitted for examination and medical treatment.

*Vicinity map* shall mean a map showing the site in relationship to the city, not necessarily to scale.

*Warehouse* shall mean a building used primarily for the storage of goods and materials.

*Wholesale operation* shall mean a place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

*Wrecking yard* shall mean the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of two or more motor vehicles of any kind which are incapable of being operated due to condition or lack of license have been placed for the purpose of obtaining parts for recycling or resale.

*Zero lot line dwelling.* Same as "patio home"

*Zoning district map* shall mean the official map, labeled Exhibit "A", upon which the boundaries of the various zoning districts are drawn and which is an integral part of the zoning ordinance.

*Zoning official* shall mean the official or other designated authority charged with the administration and enforcement of the zoning ordinance.

## **Section 130-4. Zoning district map.**

The boundaries of zoning districts set out herein are delineated upon a zoning district map of the city, adopted as part of this chapter as fully as if the same were set forth herein in detail.

(1) One original of the zoning district map shall be filed in the office of the city secretary and labeled as Exhibit "A." This copy shall be the official zoning district map and shall bear the signature of the mayor and attestation of the city secretary. This copy shall not be changed in any manner. In case of any question, this copy, together with any amending ordinances, shall be controlling.

(2) The current zoning district map shall be placed in the office of the city planner. The copy shall be used for reference and shall be maintained up-to-date by posting thereon all subsequent amendments and shall be identified as the official zoning map. Reproductions for informational purposes may be made of the official zoning district map.

## **Section 130-5. Zoning district boundaries.**

The zoning district boundary lines shown on the zoning district map are usually along streets, alleys, property lines, or extensions thereof. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following city limits shall be construed as following city limits.

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the right-of-way lines.

(5) Boundaries indicated as following lake shorelines shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of all bodies of water shall be construed to follow such centerline and, in the event of change in the centerline, shall be construed to move with such centerline.

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the original zoning maps shall be determined by the scale of the map.

(7) Whenever any street, alley, or other public way is vacated by official action of the city council or whenever such area is franchised for building purposes, the zoning district line

adjoining each side of such street, alley, or other public way shall be automatically extended to the centerline of such vacated street, alley, or way and all areas so involved shall then and henceforth be subject to all regulations of the extended districts.

(8) The zoning classification applied to a tract of land adjacent to a street shall extend to the centerline of the street unless as a condition of zoning approval it is stated that the zoning classification shall not apply to the street.

(9) Where physical features on the ground are at variance with information shown on the official zoning district map or when there arises a question as to how or whether a parcel of property is zoned and such question cannot be resolved by the application of subsections (1) through (8) of this section, the property shall be considered as classified A-O, Agricultural-Open District, in the same manner as provided for newly annexed territory.

(10) Permanent zoning changes made after the date of passage of the ordinance from which this chapter is derived are indicated in approximate locations on the zoning district map. For exact legal descriptions, refer to the adopting ordinance amendment for each particular permanent zoning change.

## **Section 130-6. Compliance required.**

All land, buildings, structures, or appurtenances located thereon within the city, which are hereafter occupied, used, erected, altered, removed, placed, demolished, or converted shall be occupied, used, erected, altered, removed, placed, demolished, or converted in conformance with the zoning regulations prescribed for the zoning district in which such land or building is located as hereinafter provided or be subject to penalties as stated in section 130-41.

## **Section 130-7. Zoning upon annexation.**

Any territory hereafter annexed to the city and brought within its corporate limits shall be assigned a zoning classification upon annexation appropriate to its existing use in accordance with the procedures required by state law and this chapter, or shall be governed by the following regulations pending establishment of permanent zoning on such territory. In the event that these temporary regulations become applicable and no requests for permanent zoning classification have been made by the property owners within one year of the date of annexation, the planning and zoning commission shall initiate a request for permanent classification, using the procedures established in this chapter. The following regulations are applicable to all property not assigned a permanent zoning classification at the time of annexation:

(1) No person shall erect, construct, proceed, or continue with the erection or construction of any building or structure, or cause the same to be done in any newly annexed territory to the city without first applying for and obtaining a building permit or certificate of occupancy from the chief building official.

(2) No permit for the construction of a building or use of land shall be issued by the chief building official other than a permit which will allow the construction of a building or use permitted in the A-O, Agricultural-Open District, unless and until such territory has been classified in a zoning district other than the A-O, Agricultural-Open District, by the city council in the manner prescribed by this chapter.

## **Section 130-8. Zoning districts established.**

(a) The City of Bryan, Texas, is hereby divided into the following zoning districts. The use, height, and area regulations as set out herein apply to each district. The districts established herein shall be known as:

Abbreviated Designation	Zoning District Name
A-O	Agricultural-Open District
RD-7	Residential District -7000
RD-5	Residential District -5000
MF	Multiple-family District
DT-N	Downtown North District
DT-S	Downtown South District
DT-C	Downtown Civic District
SC-B	South College Business
SC-R	South College Residential
C-1	Office District
C-2	Retail District
C-3	Commercial District
I	Industrial District

Abbreviated Designation	Special Purpose District Name
HP	Historic Preservation Overlay District
PD	Planned Development District
CO	Corridor Overlay District
MU-1	Mixed Use Residential District - 1
MU-2	Mixed Use District – 2 (General)
R-NC	Residential Neighborhood Conservation District

(b) Definitions and terms. Certain words and terms used throughout this ordinance are defined in Section 130-3.

## **Section 130-9. A-O, Agricultural-Open District.**

(a) *General purpose and description.* This district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used primarily for agricultural purposes, but may become an urban area in the future. Generally, the A-O, Agricultural-Open District, will be near development, therefore the agricultural activities conducted in the A-O, Agricultural-Open District, should not be detrimental to urban land uses. The types of uses, area, and intensity of uses permitted in this district encourage and protect agricultural uses until urbanization is warranted and the appropriate change in district classification is made. The A-O, Agricultural-Open District is also intended to protect areas that may be unsuitable for development because of physical problems, lack of infrastructure, space constraints, or potential health or safety hazards such as flooding, as well as providing for preservation of natural open space areas.

(b) *Permitted uses:*

- Accessory structures (refer to section 130-33(a));
- Accessory dwelling unit (refer to section 130-33(b));
- Cemetery;
- City of Bryan Fire Department Training Tower;
- City of Bryan Police Department Firing Range;
- Country club (private);
- Detached Dwelling
- Essential municipal uses;
- Farm, gardening, ranch, and agricultural operations, including field crops, orchards, horticulture, animal husbandry, but not including feed lots and poultry farms;
- Golf course;
- Government (federal or state) owned structures, facilities, and uses;
- Group homes;
- Home occupations;
- Kennel, commercial;
- Landscape service (with open storage);
- Nursery (greenhouse) oil and gas well operations;
- Place of worship;
- Private utilities (no storage yards);
- Real estate sales offices during the development of residential subdivisions, but not to exceed three years;
- Recreational areas (operated by public, charitable or religious organizations)/community center;
- Sanitary landfill;
- Schools;
- Servant's quarters and quarters used by bona fide farm workers, or other accessory buildings such as barns, sheds, and other structures necessary for farming operations may be permitted, provided however, that no such accessory building or quarters to be used by servants or farm workers shall be occupied as a place of abode or dwelling by anyone other than a bona fide

servant or farm worker actually regularly employed on the premises by the landowner or occupant of the main building;

- Stables--Commercial (subject to the rules and regulations of the state health department);
- Stables--Private (subject to the rules and regulations of the state health department);
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services with outdoor pens and runs

(c) *Conditional uses:*

- Airport (public or private);
- Bed and breakfast;
- Charitable uses college or university;
- Commercial amusement (outdoor);
- Commercial landfill;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Fraternal and service organizations;
- Fraternity and sorority houses;
- Heliport or helistop;
- Hospital manufactured housing land lease community, three acres minimum park size;
- Manufactured homes on individual lots of one acre or more;
- Municipal services support facilities;
- Open storage;
- Outdoor theater or amphitheater;
- Police station;
- Private utility company with outside storage;
- Produce stand (seasonal);
- Racing track, public arena, or stadium;
- Recycling centers;
- Rodeo grounds;
- Recreational vehicle (RV) park;
- Soil, crushed rock, and gravel, open storage or sales

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(f) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62,



before activity on the property may resume. Detached Dwellings patio homes, townhouses, and duplexes are exempt from this provision.

(3) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(4) Open storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

## **Section 130-10. RD-7, Residential District-7000.**

(a) General purpose and description. The Residential District - 7000, is intended to be composed of detached dwelling units on lots of not less than seven thousand (7,000) square feet. Detached dwelling units are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

(b) Permitted uses:

- Accessory Structures (refer to Section 130-33(a))
- Detached Dwelling Units with no more than 4 un-related persons
- Essential Municipal Uses
- Group Home/Community Home
- Government (Federal or State) Owned structures, facilities, and uses
- Home Occupations
- Place of Worship
- Private Utilities (no storage yards)
- Real estate sales offices during the development of residential subdivisions, but not to exceed three (3) years
- Schools
- Temporary Structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work

(c) Conditional uses:

- Accessory Dwelling Unit (refer to Section 130-33(b))
- Accessory Structure if greater than the standards set forth in Section 130-33(a)
- Bed and Breakfast
- Boarding (Lodging) House
- Child Care - Class B
- Country Club or Golf Course
- Duplex
- Funeral Home/Mortuary
- Neighborhood Services
- Nursing Home (Retirement Home)
- Patio Home (Zero Lot Line Dwelling)
- Police Station
- Professional Offices (In the Eastside Historic District, the Building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building.)
- Community Center/Recreation Center
- Townhouses

(d) Lot area, height, and setback requirements:

Refer to Building Setbacks and Lot Standards, Article IV, Chapter 62, Bryan City Code.

(e) Parking regulations:

Refer to Access and Off-Street Parking, Article VI of Chapter 62, Bryan City Code.

(f) Other regulations:

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in Section 130-34.

(g) Special requirements:

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Open storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)

(3) Where activity has ceased for one (1) or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the Non-Residential & Multi-Family Development, Article III of Chapter 62, Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in Section 130-33.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate four vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of eight percent of the site landscaped.

## **Section 130-11. RD-5, Residential District-5,000.**

(a) General purpose and description:

The Residential District - 5000, is intended to provide for development of detached dwelling units on lots of not less than five thousand (5,000) square feet. Other uses, such as religious and educational facilities, and open spaces are provided to maintain a balanced, orderly, convenient, and attractive residential area. Certain uses, such as duplexes, may be permitted if used in a compatible manner with areas.

(b) Permitted uses:

- Any use permitted in RD-7

(c) Conditional uses:

- Any conditional use listed in RD-7 with the addition of:
- Halfway House

(d) Lot area, height, and setback requirements:

Refer to Building Setbacks and Lot Standards, Article IV, Chapter 62, Bryan City Code.

(e) Parking regulations:

Refer to Access and Off-Street Parking, Article VI of Chapter 62, Bryan City Code.

(f) Other regulations:

- (1) As established by all other applicable sections and/or ordinances.
- (2) Wireless telecommunication facilities shall be allowed only as provided for in Section 130-34.

(g) Special requirements:

- (1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
- (2) Open storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)
- (3) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see Section 130-33 for criteria). Duplex and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in Section 130-33.
- (4) Where activity has ceased for one (1) or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of Non-Residential & Multi-Family Development, Article III of Chapter 62, Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

## **Section 130-12. MF, Multiple-Family Residential District.**

(a) *General purpose and description.* The MF, Multiple-Family Residential District, is a residential district intended to provide the highest residential density of a maximum of 25 dwelling units per acre. The principal permitted land uses will include low-rise multiple-family dwellings, garden apartments, condominiums, duplexes, and townhouses. Recreational, religious, health and educational uses normally located to service residential areas are also permitted in this district. This district should be located adjacent to an arterial or collector, as shown on the Major Thoroughfare Plan, and serve as a buffer between retail/commercial development or heavy automobile traffic, and medium or low density residential development.

(b) *Permitted uses:*

Any use permitted in RD-5 with the addition of:

- Boardinghouse (lodging house);
- Child care--Class B Common Open Space, Community Center, Recreational Building, and other facilities or amenities, provided they are intended for use by the residents of the multifamily apartment complex;
- Duplex;
- Essential municipal uses;
- Laundromats (Self Service Washateria);
- Multiple-family dwelling (apartment building, triplex, four-plex), greater than two dwelling units per structure;
- Nursing home (retirement home);
- Townhouses.

(c) *Conditional uses:*

Any conditional use allowed in RD-5 with the addition of:

- Dormitory;
- Fitness center;
- Fraternity and sorority houses;
- Funeral home/mortuary;
- Manufactured housing land lease communities;
- Municipal services support facilities;
- Non-paid parking for nonresidential uses;
- Police station.

(d) *Height regulations.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(h) *Special district requirements:*

(1) Detached Dwelling Units constructed in this district shall conform to RD-5 district standards.

(2) No temporary structures, such as travel trailers, recreational vehicles, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(3) Open storage is prohibited.

(4) A paved walkway shall connect the front door of each multifamily ground floor unit to a parking area.

(5) Refer to section 130-33 for patio home, townhouse, and duplex development criteria.

(6) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.

## Section 130-13. C-1, Office District.

(a) *General purpose and description.* The C-1, Office District is established to create a flexible district for low intensity office and professional uses generally in smaller buildings. Some light intensity retail uses are also permitted. Permitted uses should be compatible with adjacent residential areas by limiting heights to two stories and utilizing buffers and landscape materials. Adaptive reuse of existing structures is encouraged. Sites zoned office may be built over two stories, subject to certain restrictions, if located such that they will not adversely impact any properties zoned or used for a Detached Dwelling use. Buildings and structures in this district should strive for architectural compatibility.

(b) *Permitted uses:*

- Accessory or incidental uses to the main use (snack or food bars, automatic teller machines, etc.);
- Accessory structure (refer to section 130-33(a));
- Banks, savings and loans or credit union offices;
- Charitable uses
- Child care--Class B;
- Child care--Class C;
- Essential municipal uses;
- Recreational/community center;
- Fraternal/service organization;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, or uses;
- Hospital;
- Kiosk;
- Laboratory (scientific, research, medical, optical);
- Medical facilities or clinics;
- Museum/art gallery;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Police station;
- Private utility office (no repair or outside storage);
- Radio or television broadcasting studio (without tower);
- Nursing home (retirement home);
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) *Conditional uses:*

- College or university;

- Duplex;
- Fitness center;
- Funeral home/mortuary;
- Heliport or helistop;
- Multifamily dwelling;
- Municipal services support facilities;
- Oil and gas well operations;
- Patio home (zero lot line dwelling);
- Restaurant or cafeteria;
- Reception hall;
- Detached Dwelling Units;
- Studios;
- Theater--Indoor;
- Townhouse.

(d) *Height regulations.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Open storage is prohibited.
- (3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.
- (4) Detached Dwelling Units permitted in this district shall conform to standards as specified in the RD-5 district.
- (5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.
- (6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
- (7) Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.
- (8) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.



## **Section 130-14. C-2, Retail District.**

(a) *General purpose and description.* The R, Retail District is established to provide locations for various types of general retail trade, business and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These shopping areas should utilize established landscape and buffering requirements and generally be limited to two stories in height. The Retail District should be located along or at the intersection of major collectors or arterials to accommodate higher traffic volumes. Under certain conditions, high-rise offices may be permitted if proper buffering and transition treatment is provided from residential districts.

(b) *Permitted uses:*

Any permitted use in the C-1, Office District with the addition of:

- Automobile service station;
- Bed and breakfast;
- Boardinghouse (lodging house);
- Business or trade school;
- Commercial amusement (indoor);
- Dance studio;
- Fitness center;
- Funeral home/mortuary;
- Gaming establishments;
- Indoor archery and shooting range;
- Laundromats (Self Service Washateria);
- Motel or hotel;
- Nursery (greenhouse);
- Package liquor store;
- Parking lots or garages, commercial;
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code Chapter 371;
- Reception hall;
- Retail services (including incidental uses);
- Restaurant;
- Studio;
- Tattoo/piercing studio;
- Theater--Indoor.

(c) *Conditional uses:*

Any conditional use allowed in the C-1, Office District with the addition of:

- Automobile repair/sales/rental;
- Boat repair/sales/rental;
- Commercial amusement (outdoor);
- Heating or air conditioning sales or service;
- Heliport or helistop;

- Ice company sales--Wholesale;
- Mini-warehouse or self storage;
- Motorcycle sales/rental/service;
- Moving company;
- Night club or tavern( $\leq 5,000$  square feet);
- Office--Showroom/warehouse;
- Theater--Outdoor;
- Printing company;
- Recycling collection point;
- Trailer rental;
- Truck rental.

(d) *Height regulations.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Open storage is prohibited.
- (3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.
- (4) Detached Dwelling Units permitted in this district shall conform to standards as specified in the RD-5 district. Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.
- (5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.
- (6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
- (7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:
  - a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.
  - b. Vibration is discernible beyond the property line.
  - c. Noise above the average intensity of street traffic is discernible beyond the property line.
  - d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(8) Wireless telecommunications facilities shall be allowed only as provided for in section 130-34.

## **Section 130-15. C-3, Commercial District.**

(a) *General purpose and description.* The C, Commercial District is intended predominantly for heavy retail and commercial uses of a service nature which typically have operating characteristics or traffic service requirements generally compatible with typical retail or shopping, but generally not with residential environments. Operating characteristics which may be typical of uses permitted in the Commercial District include service oriented, may sell used goods, require warehouse storage and delivery areas, and have a greater service radius than retail stores.

(b) *Permitted uses:*

Any permitted use allowed in the Retail District with the addition of:

- Amusement arcade (video arcade);
- Automobile repair;
- Automobile sales/rental/service;
- Boat sales/rental/service;
- Bus terminal/station;
- Commercial amusement, (indoor);
- Commercial amusement, (outdoor);
- Commercial bakery;
- Farm equipment sales and service;
- Feed store;
- Fraternity/sorority house;
- Gaming establishments;
- Ice company (sales);
- Ice company (wholesale);
- Indoor archery and shooting range;
- Landscape service;
- Laundries, commercial;
- Lumberyard;
- Manufactured home display and sales;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Nightclub or tavern;
- Office--Showroom/warehouse;
- Theater--Outdoor (amphitheater);
- Overnight delivery company;
- Paper/chemical suppliers;
- Parking lots (non-paid for nonresidential use);
- Plumbing service;
- Portable/small commercial structures--Permanent;
- Portable/small commercial structures--Seasonal;
- Printing company;
- Private utility company (with outside storage);

- Recycling collection point;
- Recreational vehicle (RV) park;
- Tool and machinery rental;
- Truck repair/truck stop;
- Veterinary services (no outdoor runs or pens).

(c) *Conditional uses:*

Any conditional use allowed in the Retail District with the addition of:

- Cabinet shop;
- Cemetery;
- College or university;
- Flea market;
- Golf course or country club;
- Heliport or helistop;
- Manufacturing;
- Machine shop;
- Moving company;
- Multifamily dwelling;
- Refuse systems;
- Rodeo grounds;
- Stable--Commercial.

(d) *Height regulations.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(g) *Other regulations:*

- (1) As established in all other applicable sections and/or ordinances.
- (2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.
- (3) Detached Dwelling Units permitted in this district shall conform to standards as specified in the RD-5 district. Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.
- (4) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.
- (5) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

- (6) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:
- a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.
  - b. Vibration is discernible beyond the property line.
  - c. Noise above the average intensity of street traffic is discernible beyond the property line.
  - d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.
- (7) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.
- (8) The following regulations pertain to portable/small commercial structures-permanent which are permitted in this district.
- a. Refer to building setbacks and lot standards, article IV, chapter 62.
  - b. All fire code requirements must be met.
  - c. A written agreement with the property owner for trash pickup must be provided.
  - d. All parking requirements must be met.
  - e. No portable/small commercial structures shall be allowed in parking lots that do not meet current construction standards or do not presently have an excess of parking for the existing structures utilizing the lot.
  - f. The site development review committee must approve vehicle circulation.
  - g. The structure must be properly anchored, either to the surface of the lot or it must be on a permanent foundation.
  - h. Landscaping must front a minimum of ten percent of the building's facade. Acceptable landscaping of portable/small commercial structures includes the following: raised planter boxes and at grade planting beds.
  - i. Restroom facilities for the employer and employees must be provided either inside the structure or via an agreement with the owner of the main structure on the site.
- (9) The following regulations pertain to portable/small commercial structures-seasonal which are permitted in this district. Certificate of occupancies for portable/small commercial structures-seasonal shall be granted for a maximum of 60 days, after which time the structure must be removed from the site. An additional certificate of occupancy shall not be granted for the same business for a minimum of six months.
- (10) Open storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

## **Section 130-16. Downtown Districts.**

The Downtown Zoning Districts are established to accommodate existing development and to promote future development in the central area of the city, and to protect the character of the downtown area. They recognize the unique characteristics of each section of downtown and its space limitations. The Downtown Bryan Master Plan, adopted in October 2001, recommends that the Downtown Zoning District be extended from its current boundaries to create a cohesive urban fabric.

## **Section 130-17. DT-N, Downtown North District.**

(a) *General purpose and description.* The DT-N, Downtown North District is established to accommodate existing developments and to promote new development in an area which provides for various types of residential uses as well as general retail, office, business and service uses. The district encourages high density residential development and retail uses to support a residential community.

(b) *Permitted uses:*

- Apartment building;
- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Kiosk;
- Laundromats (Self Service Washateria);
- Loft apartments;
- Motel/hotel;
- Museum/art gallery;
- Neighborhood services (as defined in section 130-33(i));
- Nightclub or tavern (5,000 square feet or less);
- Nursing home (retirement home);
- Package liquor store;
- Parking lot or garage, commercial or non-paid for nonresidential use;
- Personal service shop or custom personal services;
- Pharmacies;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Townhouses;
- Veterinary services (no outside runs or pens).



(c) *Conditional uses:*

- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Theater (indoor).

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, article VI, chapter 62.

(f) *Architectural regulations.* Building permits within the DT-N, Downtown North Zoning District will not be issued prior to the review and approval of the city planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the city's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) *Other regulations:*

- (1) Outside storage is prohibited as established by section 130-33.
- (2) Establishments selling alcoholic beverages within the DT-N, Downtown North Zoning District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.
- (3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.
- (4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-N, Downtown North Zoning District.
- (5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:
  - a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.
  - b. Vibration is discernible beyond the property line.
  - c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.
- (6) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.
- (7) Special use licenses within the DT-N, Downtown North District shall be allowed only as provided for in section 62-243.

## **Section 130-18. DT-S, Downtown South District.**

(a) *General purpose and description.* The DT-S, Downtown South District is established to accommodate existing developments and to promote new development in an area which traditionally provided for various types of general retail, office, business and service uses while encouraging secondary residential uses on the upper floors of buildings.

(b) *Permitted uses:*

- Banks, savings and loans or credit unions;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Condominiums;
- Dance studio;
- Department store (discount/variety);
- Essential municipal uses;
- Fitness center;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Laundromats (Self Service Washateria);
- Loft apartments;
- Medical clinics;
- Motel/hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet. or less);
- Outdoor theater (amphitheater);
- Package liquor store;
- Personal service shop or custom personal services;
- Photography studio;
- Place of worship;
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Theater (indoor);
- Veterinary services (no outside runs or pens).

(c) *Conditional uses:*

- College or university;
- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Police station;
- Roof-top heliport or helistop.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, article VI, chapter 62.

(f) *Architectural regulations.* Building permits within the DT-S, Downtown South Zoning Districts will not be issued prior to the review and approval of the city planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the city's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) *Other regulations.* Outside storage is prohibited as established by section 130-33.

(1) Establishments selling alcoholic beverages within the DT-S, Downtown South Zoning District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.

(3) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-S, Downtown South Zoning District.

(4) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:

- a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.
- b. Vibration is discernible beyond the property line.
- c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(5) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(6) Special use licenses within the DT-S, Downtown South District shall be allowed only as provided for in section 62-243.

## **Section 130-19. DT-C, Downtown Civic District.**

(a) *General purpose and description.* The DT-C, Downtown Civic District is established to accommodate existing developments and to promote new development in an area which provides for various types of civic uses as well as general retail, office, business and service uses.

(b) *Permitted uses:*

- Banks, savings and loans or credit unions;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Community/recreational center;
- Courthouse (municipal, state or federal);
- Essential municipal uses;
- Fitness center;
- Fraternal/service organizations;
- General office use (professional, administrative, etc.);
- Government (federal or state) owned structures, facilities, and uses;
- Hospital;
- Kiosk;
- Medical clinics, health care services;
- Museum/art gallery;
- Parking lot or garage, commercial or nonpaid for nonresidential use;
- Place of worship;
- Police station;
- Private utility office (no repair or outside storage);
- Radio or television broadcasting studio (without tower);
- Restaurant, cafeteria;
- Retail--General;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) *Conditional uses:*

- College or university;
- Loft apartments;
- Municipal services support facilities;
- Roof-top heliport or helistop;
- Detached Dwelling Units;
- Townhouses.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking ordinance, article VI, chapter 62.

(f) *Architectural regulations.* Building permits within the DT-C, Downtown Civic Zoning District will not be issued prior to the review and approval of the city planner or his or her designee to assure that new construction and/or additions to existing structures are in keeping with the significant architectural, historic, or cultural elements of the district. Regulations affecting the exterior of the building will be in accordance with the city's Design Guidelines for the Downtown Historic District and Other Local Commercial Historic Resources, and the Downtown Bryan Master Plan.

(g) *Other regulations:*

(1) Outside storage is prohibited as established by section 130-33.

(2) Establishments selling alcoholic beverages within the DT-C, Downtown Civic Zoning District shall be exempt from any regulations regarding their proximity to a public school, church, or a public hospital.

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of chapter 62, before activity on the property may resume. Detached Dwelling Units, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Temporary structures including, but not limited to recreational vehicles, travel trailers, manufactured homes, or mobile homes will not be permitted in the DT-C, Downtown Civic Zoning District.

(5) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:

a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

b. Vibration is discernible beyond the property line.

c. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

(6) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(7) Special use licenses within the DT-C, Downtown Civic District shall be allowed only as provided for in section 62-243.

## **Section 130-20. The South College Districts.**

The South College Zoning Districts are established to protect existing development and to promote future development, while maintaining the unique character along South College Avenue. The establishment of the South College Zoning Districts is one vital step in implementing The South College Avenue Corridor Redevelopment Plan, adopted in February 2001.

## **Section 130-21. SC-B, South College Business District.**

(a) *General purpose and description.* The SC-B, South College Business District is established to provide locations for various types of general retail trade, business and service uses. The district allows uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods. These areas should utilize established landscape and screening requirements to be compatible with the residential uses while adding diversity to the South College Corridor.

(b) *Permitted uses:*

- Accessory or incidental uses to the main use;
- Accessory structure (refer to section 130-33(a));
- Bakery, commercial;
- Banks, savings, and loans or credit union offices;
- Barbershops and beauty salons;
- Bed and breakfast facility;
- Boardinghouse or lodginghouse;
- Bus terminal/station;
- Business or trade school;
- Charitable uses;
- Child care--Class B;
- Child care--Class C;
- Commercial amusement (indoor);
- Community/recreational center;
- Dance studio;
- Day spa;
- Engraving shop;
- Essential municipal uses;
- Fitness center;
- Fraternal/service organization;
- Funeral home/mortuary;
- Gasoline or service station;
- General office use;
- Government (federal or state) owned structures, facilities, or uses;
- Greenhouse/nursery (retail sales, outdoor plant display permitted);
- Hardware store;
- Kiosk;
- Laboratory (medical, optical);
- Laundromats/cleaners;
- Medical clinics, health care services;
- Motel, hotel;
- Museum/art gallery;
- Nightclub or tavern (5,000 square feet or less);
- Package liquor store;

- Pharmacies;
- Photography studio;
- Place of worship;
- Private utility office (no repair or outside storage);
- Radio or television broadcasting studio;
- Restaurant or cafeteria;
- Retail services;
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Veterinary services (no outdoor pens or runs).

(c) *Conditional uses:*

- Automobile repair (no outside storage);
- Automobile sales/rental/service (no outside storage or display area);
- Boat sales/rental/service (no outside storage or display area);
- Cabinet shop;
- Commercial amusement (outdoor);
- Courthouse (municipal, state or federal);
- Duplex;
- Fraternity/sorority house;
- Gaming establishments;
- Heating or air conditioning sales or service;
- Indoor archery and shooting range;
- Motorcycle sales/rental/service (no outside storage);
- Multifamily dwelling;
- Municipal services support facilities;
- Nightclub or tavern (greater than 5,000 square feet);
- Patio home;
- Plumbing service;
- Police station;
- Printing company;
- Retirement or nursing home;
- Roofing/siding company;
- Detached Dwelling Units;
- Townhouse.

(d) *Height regulations.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.



(g) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Open storage is prohibited, including the outside display or storage of vehicles. Plant displays are permitted where a greenhouse is a permitted use.
- (3) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.
- (4) Detached Dwelling permitted conditionally in this district shall conform to standards as specified in the RD-5 district. Duplex, townhouse, and patio home dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.
- (5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of chapter 62, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.
- (6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.
- (7) The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:
  - a. Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.
  - b. Vibration is discernible beyond the property line.
  - c. Noise above the average intensity of street traffic is discernible beyond the property line.
  - d. Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.
- (8) Wireless telecommunications facilities shall be allowed only as provided for in section 130-34.

## **Section 130-22. SC-R, South College Residential District.**

(a) *General purpose and description.* The SC-R, South College Residential District is intended to be composed of detached, detached dwelling units. Detached dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses. Other uses may be permitted in this district which are compatible to detached dwelling residential uses and that will enhance the overall aesthetics of the South College Corridor. The uses permitted conditionally shall be designed for their intended use and not infringe upon the residential uses.

(b) *Permitted uses:*

- Accessory structures 725 square feet or less in area (refer to section 130-33(a));
- Detached Dwelling Units;
- Essential municipal uses;
- Government owned structures, facilities, and uses;
- Home occupations;
- Place of worship;
- Private utilities (no storage yards);
- Schools;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

(c) *Conditional uses:*

- Accessory dwelling unit;
- Accessory structure in excess of 725 square feet;
- Bed and breakfast;
- Boardinghouse or lodginghouse;
- Child care--Class B;
- Child care--Class C;
- Community/recreation center;
- Duplex;
- Fraternity/sorority house;
- Funeral home/mortuary;
- Multifamily dwelling;
- Municipal services support facilities;
- Neighborhood services;
- Patio home (zero lot line dwelling--minimum of three lots);
- Police station;
- Professional offices;
- Retirement or nursing home;
- Townhouses.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(f) *Other regulations:*

(1) As established by all other applicable sections and/or ordinances.

(2) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(g) *Special requirements:*

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(2) Open storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).

(3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the chapter 62, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.

(5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 40 feet long by 18 feet wide so as to accommodate four vehicles on the site.

(6) Professional offices, conditionally permitted in this district shall have a minimum of eight percent of the site landscaped.

## **Section 130-23. I, Industrial District.**

(a) *General purpose and description.* The I, Industrial District is intended primarily for the conduct of manufacturing, assembling and fabrication, and for warehousing, wholesaling and service operations which may depend upon frequent customer or client visits. Such uses do require accessibility to major highways, rail lines or other means of transportation requiring the distribution of goods.

(b) *Permitted uses:*

- Accessory/incidental uses to the main use;
- Adult entertainment;
- Airport/airfield (public or private);
- Antenna, commercial;
- Automobile repair;
- Auto sales/rental/service;
- Boat sales/rental/service;
- Building materials/hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- City of Bryan Fire Department Training Tower;
- Commercial amusement (indoor);
- Commercial bakery;
- Commercial laundries;
- Concrete or asphalt batching plant;
- Essential municipal uses;
- Fabrication;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Gaming establishments;
- Government (federal or state) owned structures, facilities, and uses;
- Heating and air conditioning sales and service;
- Ice company--Sales;
- Ice company--Wholesale;
- Incidental living quarters;
- Indoor archery or shooting range;
- Landscape service;
- Lumberyard;
- Machine shop;
- Manufacturing;
- Mini-warehouse/self storage;
- Motorcycle sales/rental/service;
- Moving company;

- Nightclub/tavern;
- Office--Showroom/warehouse;
- Oil and gas well operations;
- Oil field equipment storage yard;
- Open storage of materials and goods;
- Overnight delivery company;
- Paper/chemical suppliers;
- Place of worship;
- Plumbing shop;
- Power plants;
- Printing company;
- Public utility company with outside storage;
- Recycling centers;
- Recycling collection point;
- Recreational/community center;
- Refuse systems;
- Restaurant;
- Roofing and siding company;
- Service facilities owned and operated by other municipalities;
- Service operations;
- Soil, crushed rock, gravel sales and storage;
- Tattoo/piercing studio;
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Tool and machinery rental;
- Trailer rental;
- Truck rental;
- Truck repair/truck stop;
- Trucking company;
- Veterinary services with outdoor pens and runs;
- Warehousing;
- Well service operations;
- Wholesale operations;
- Wrecking yards (junkyards).

(c) *Conditional uses:*

- Commercial amusement (outdoor);
- Heliport/helistop;
- Municipal services support facilities;
- Police station.

(d) *Maximum height.* None, unless adjacent to a residential district, then an additional two feet setback for every one foot in height shall be observed adjacent to any residential property line. Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Lot area and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(f) *Parking regulations.* Refer to access off-street parking, article VI, chapter 62.

(g) *Other regulations.*

(1) As established by all other applicable sections and/or ordinances.

(2) Incidental living quarters for employees required by job duties to remain on the site for limited periods are permitted. Such quarters shall be provided in permanent structures that are an integral part of the use associated permitted in this district.

(3) Adult entertainment uses permitted in this district shall not be located within 1,000 feet of a public school, public hospital, church, or residential district. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of a school, hospital, or church, or to a residential district boundary. Adult entertainment uses shall not be located within 1,000 feet of another adult entertainment use. The distance shall be measured from the front (main) door of the adult entertainment establishment to the front (main) door of another adult entertainment establishment.

(4) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.

(5) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(6) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes.

(7) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(h) *Performance standards.* The following regulations are to control contamination of the air, water, or the environment and to safeguard the health, safety, and general welfare of the public. No machine, process or procedure shall be employed on any property in the city, in which:

(1) Emission of smoke, dust, noxious, toxic, or lethal gasses are detectable beyond the perimeter of the property.

(2) Vibration is discernible beyond the property line.

(3) Noise above the average intensity of street traffic is discernible beyond the property line.

(4) Materials are stored or accumulated in such a way that they may be carried by rainwater in natural drainage channels beyond the limits of the property, which are noxious, toxic, radioactive, or contain oil or grease.

## **Section 130-24. HP, Historic Preservation Overlay District.**

(a) *General purpose and description.* The HP, Historic Preservation District is intended to provide for the protection, preservation and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological or cultural importance or value. The HP District is envisioned as a tool to help stabilize and improve property values, to encourage neighborhood conservation, to foster civic pride and past accomplishments, to protect and enhance the city's attractions to tourists, to strengthen the economy and to promote the use of historical-cultural landmarks for the general welfare of the community.

(b) *District designation:*

(1) The city council may establish an "historic preservation zoning district" (HP District) upon receipt of a recommendation by the historic landmark commission and the planning and zoning commission and in accordance with the procedures established in this chapter.

(2) The HP District shall be designated as an overlay district on the city zoning map. Regulations established for the district by separate ordinance in accordance with this chapter shall be supplemental to those in the base zoning district and base district regulations shall apply except as expressly modified by the adopting ordinance.

(3) In establishing the HP District, the council may modify the requirements of the base district, and may reduce, increase, or revise the height, setbacks, area, coverage, parking, signs, and any other developmental standards, if such action is determined to be necessary for achievement of the purposes of the district. Development requirements shall be set forth in the amending ordinance establishing the HP District.

(c) *District boundaries.* The boundaries of historic districts shall be drawn so as to include buildings, structures, sites, areas or lands which meet one or more of the criteria set forth herein or which directly affect or relate to such buildings, structures, sites, areas or lands meeting one or more of the criteria set out in section 54-90, provided that at least 60 percent of the total structures within the boundaries are of architectural, historical, or cultural importance or value.

(d) *Application for establishment or amendment of district:*

(1) All applications for establishment or amendment of an historic preservation district shall be first presented to the historic landmark commission for preparation of its recommendation and shall contain the following information:

a. A list of representative buildings, structures, sites, areas or lands of importance or value located within the proposed district boundaries and a description of the particular importance or value of each representative building, structure, site, area or land.

b. A map showing the boundaries of the proposed historic district drawn to a scale of one inch = 600 feet; and the location of each structure of importance or value identified by a number or letter designation.

c. A photograph or photographs of each representative building, structure, site, area or land.

d. A description of each representative building, structure, site, area or land showing the condition, color, and architectural style of each; and:

1. Date of construction, if known;
  2. Builder or architect, if known;
  3. Chain of uses and ownership;
  4. Material;
  5. Construction technique;
  6. Recognition of state or national government as architecturally or historically significant, if so designated.
- e. A description of the cultural importance or value of the representative building, structure, site, area, or land, if cultural importance is the basis of the application.
  - f. Any proposed restrictions of activities on and uses of property within the proposed historic district.
  - g. At such time that the proposed district is created, the above information is to be collected on each building, structure, site, area, or land within the district indicated on the boundary map as being of importance or value.
  - h. Consent in writing of the owners of 60 percent or more of the individual parcels of land which lies within the proposed historic district (one vote per parcel).
  - i. Consider the effect of the proposed district on existing and proposed utilities, streets, and other public improvements.
- (2) Applications to increase the boundaries of an historic district may be made if one or more of the following conditions are met:
- a. When buildings, structures, sites, areas, or lands of importance or value are related to the district and are requested by their owner for inclusion.
  - b. When facts previously undisclosed to or unknown by the historic landmark commission are revealed which indicate that a particular building or site is possessed of special architectural, cultural, or historic importance or value.
- (3) Applications to reduce the boundaries of an historic district may be made when one or more of the following conditions have been met:
- a. When it can be shown that a particular building, structure, site, area, or land has no historic, architectural, or cultural importance or value to the viability of the district and where its location is such as not to detract from the district by its exclusion.
  - b. When exclusion of buildings, structures, sites, areas, or lands is necessary for major new development that would support either the architectural, historical, archaeological, or cultural character or economic viability of the district, provided such development does not detract from the district and the purposes of historic preservation.
  - c. When it can be shown that no degradation of the district, either physical, historical, architectural, archaeological, or cultural, will result from exclusion of property from the district.
- (4) Applications for inclusion or exclusion for property may be made when either continued exclusion or inclusion of property within the district would render it an economic hardship for reasonable continuation in its present exterior form. In order to establish such economic hardship, the owner must show that no reasonable alternative use exists which allows the exterior of the building to remain in its original style. In



evaluating economic return, the historic landmark commission may request the owner to document the value, rents, returns, tax burden, and/or contracts, pertaining to the property.

(e) *Recommendation of landmark commission.* In evaluating an application for establishment or amendment to an historic district, the historic landmark commission shall consider the information presented in the application and the criteria for designation of historic landmarks in section 54-91. Following the evaluation, the historic landmark commission shall make a recommendation to the planning and zoning commission and the city council concerning the district, including:

- (1) A legal description of the boundaries of the district;
- (2) A statement of reasons for recommending designation or changes to the district;
- (3) Findings supporting establishment of and/or changes to the district according to the criteria in sections 54-91 and 130-24 and indicating the particular importance or value of the district;
- (4) Regulations and standards applicable to properties within the district which are necessary to achieve the purposes of the district and to assure its continued preservation, which shall be incorporated within a district preservation plan.

(f) *District preservation plan.* The district preservation plan shall include but shall not be limited to the following:

- (1) *Classification of uses.* The historic landmark commission may examine the uses existing within the district in terms of their individual and continued effect upon the character, safety, economic, and physical impact of the district and may recommend alterations in or additions to any existing regulations.
- (2) *Building code regulations.* The historic landmark commission may review and recommend any amendments to the building regulations it feels necessary to preserve the architectural and historic integrity and authenticity of structures within each such district.
- (3) *Sign regulations.* The historic landmark commission may recommend sign regulations for each such district concerning size, location, type, and construction it feels appropriate.
- (4) *Parking regulations.* The historic landmark commission may review the parking regulations in existence in the district and recommend any changes in numbers or location of on-street and off-street parking requirements it feels necessary to enhance the district. It shall review the adequacy of parking facilities in or affecting the district and may offer recommendations for such public and/or private parking lots, garages, or structures it deems to be in the best overall interest of the district.
- (5) *Architectural regulations.* As a guide for those seeking a certificate of appropriateness pursuant to sections 54-53 and 54-55, the historic landmark commission may, in keeping with the significant architectural, historic, or cultural elements of each such district recommend regulations affecting the exterior of the building, including, but not limited to, the following:
  - a. Acceptable materials for new construction such as stucco, masonry, metal, and glass curtain;
  - b. Appropriate architectural character, scale, and detail for new construction;

- c. Acceptable appurtenances to new and existing structures such as gables, parapets, balconies, and dormers;
- d. Acceptable accessories on new or existing structures such as light fixtures, gas lights, canopies, exterior carpentry, banners, flags and projections, and fences, if any;
- e. Acceptable textures and ornamentation such as paint colors and types, use of wood, stone, metal, plaster, plastics, and other manmade materials, use of shutters, wrought iron, cast iron, finishes of metal, colors of glass, such as silver, gold, bronze, smoke, and other details or architectural ornamentation;
- f. Such other building regulations which would have impact on either new or existing buildings such as wiring, firewalls, sprinklers, use of flammable materials, requirements for fire escapes, multiple entrances and exists, and other exterior features;
- g. For those properties which are sites, areas, lands, buildings, structures, or vacant lots which are not of historical, architectural, or cultural importance or value, development or redevelopment shall be in accordance with the historic district preservation plan as to materials, scale and detail, appurtenances, textures, ornamentation and accessories, and shall comply with existing regulations.

(g) *Restrictions.* All buildings or structures located within a designated historic district, whether individually designated historic or not, are subject to these regulations. No person or entity shall construct, reconstruct, significantly alter, remove or demolish any exterior architectural feature of such buildings or structures until a certificate of appropriateness has been granted pursuant to sections 54-53, 54-54, and 54-55.

## **Section 130-25. PD, Planned Development District.**

(a) *General description and purpose.* The PD, Planned Development District accommodates planned associations of uses developed as integral land use units such as industrial districts, offices, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached dwellings or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A Planned Development District may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts in this chapter. While greater flexibility is given to allow special conditions or restrictions which would not otherwise allow the development to occur, procedures are established herein to ensure against misuse of increased flexibility.

(b) *Permitted uses.* Any use or combination of uses authorized by the planning and zoning commission and the city council is permitted in a Planned Development District if the use is consistent with the following categories:.

- (1) *Planned Development-Housing (PD-H).* Any use permitted in the RD-7, RD-5, and MF zoning districts are permitted in a PD-H development.
- (2) *Planned Development-Business (PD-B).* Any use permitted in the O, R, and C zoning districts are permitted in a PD-B development, excluding residential uses.
- (3) *Planned Development-Industrial (PD-I).* Any use permitted in the 'I' zoning district is permitted in a PD-I development, excluding adult entertainment.
- (4) *Planned Development-Mixed Use (PD-M).* Any use permitted in the RD-7, RD-5, MF, O, R, C, and I zoning districts are permitted in a PD-M development, excluding adult entertainment.

(c) *Planned development requirements:*

- (1) Requests for a PD designation shall be processed as a rezoning request and shall follow the procedures stated in section 130-41 unless otherwise specified in this section. A development plan for the proposed planned development shall be required that shows the location of the planned development and the relationship of the various land uses included in the development. The form and content of the development plan shall be in accordance with the provisions of the subdivision ordinance regarding development plans. Development requirements for each separate PD District shall be included as a part of the development plan for each PD District and shall include, but may not be limited to: uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, project phasing or scheduling, management associations, and other requirements as the city council and the planning and zoning commission may deem appropriate. The preparation of preliminary and final plats for the development shall be prepared in accordance with the provisions of the subdivision ordinance and with any modifications approved by the planning and zoning commission on the development plan.
- (2) The PD District shall be designated as a zoning district on the city zoning map.
- (3) The ordinance granting a PD District shall include a statement as to the purpose and intent of the planned development granted therein.

(4) Development criteria.

- a. Each proposed development shall be reviewed to determine the compatibility of the development with surrounding land uses. Open space buffers shall be required to separate land uses within the planned development from land uses adjacent to the planned development unless it is determined by the planning and zoning commission that no incompatibility exists between the land uses. No structure, parking lot, equipment pad, or other manmade construction not approved by the city shall be placed in an open space buffer. The size and location of these buffers shall be determined by the planning and zoning commission upon review of the development plan for the proposed development. The minimum size of an open space buffer shall be 25 feet measured from the exterior property line. Landscaping may be required within the buffer based on the location of existing development, the type of development, topography, or other criteria established by the planning and zoning commission.
- b. Where structures within the planned development that exceed 35 feet in height are proposed to be erected on lots adjacent to RD-7, RD-5, MU-1, or AO zoning districts, such structures shall be located one foot from the boundary of the open space buffer described in section 130-25(c)(4)a. for each two feet of height over 35 feet.
- c. Planned developments designated as PD-B, PD-I, or PD-M shall have frontage along and access to a major arterial street on at least one side of the proposed development. Access through a residential area to a PD-B, PD-I, or PD-M via a local street is prohibited.
- d. The planning and zoning commission or the city council shall not approve a planned development if it finds that the proposed planned development:
- e. Does not conform with applicable regulations and standards established by this chapter:
  1. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features, within the standards established by this section;
  2. Potentially creates unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of this section;
  3. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;
  4. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;
  5. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs; or
  6. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission.

(5) Unless otherwise specified in the approved development plan the minimum requirements for each development shall be those stated in the subdivision control ordinance (chapter 110) and the requirements of the most restrictive standard zoning district in which designated uses are permitted. There are no maximum height restrictions for planned developments except those noted in section 130-25(c). The maximum housing density permitted in any planned development shall be no more than 50 dwelling units per acre.

(6) The granting of a PD designation shall not relieve the developer from responsibility for complying with all other applicable codes and ordinances of the city unless such relief is specified in the approved development plan.

(7) An owners association will be required if other satisfactory arrangements have not been made for providing, operating, and maintaining common facilities including streets, drives, service and parking areas, common open spaces, and common recreational areas at the time the development plan is submitted. If an owners association is required, the articles of incorporation of an owners association shall be reviewed by the city to assure compliance with the provisions of this chapter.

(d) *Zoning district map.* All planned development districts approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map, and a list of such planned development districts, together with the category of uses permitted therein, shall be kept on file in the office of the city secretary or his or her designee.

## **Section 130-26. West Villa Maria, FM 2818, and FM 158 Corridor Overlay Districts.**

(a) *General purpose and description.* This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the city's image as a desirable place to live, work, and shop.

(b) *District boundaries.* The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along the following specified thoroughfare segments.

(1) West Villa Maria Road from Finfeather Road to SH 47.

(2) FM 2818 (southwest side only) from Villa Maria Road southeastward to the city limits.

(3) FM 158 from 200 feet west of the intersection of Villa Maria Road to the city limits at Cole Lane.

The depth of the corridor is 200 feet or the depth of the abutting lot, whichever is less.

(c) *Screening and general appearance standards:*

(1) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited except for the display of operable vehicles for sale at a dealership and inventory for sale of su Chapter

(2) *Building materials.* At least 75 percent of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(3) *Utility equipment.* All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(4) *Vehicle loading.* Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least six feet in height above the surface of the loading area or dock, as prescribed by the table below.

(5) *Solid waste.* Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(6) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year-round foliage at least four feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of a certain distance from any street right-of-way, except for driveway openings providing access from the street to the parking area.

- b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.
  - c. Where a vehicle drive-up window faces a street.
- (7) *Underground utilities.* All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.
- (8) *Screening fences.* All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not exceed 20 feet in length. Chainlink fences and corrugated metal or fiberglass panels are prohibited in all locations.
- (9) *Perimeter fence materials.* Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

TABLE INSET:

Standard	West Villa Maria, FM 2818, FM 158
Open storage	Prohibited
Building materials	At least 75 percent nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least six feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least three feet in height, or shrubbery of at least four feet in height
Outdoor parking	Screened when located within 50 feet of any street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

## Section 130-27. SH 47, Corridor Overlay District.

(a) *General purpose and description.* This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the city's image as a desirable place to live, work, and shop.

(b) *District boundaries.* The corridor overlay standards apply to the future development and use of all land within 200 feet or the depth of the abutting lot, whichever is less, on either side of the street right-of-way along SH 47 inside the city limits. The depth of the corridor is 500 feet.

(c) *Screening and general appearance standards:*

(1) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited except for the display of operable vehicles for sale at a dealership and inventory for sale of su Chapter

(2) *Building materials.* One hundred percent of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(3) *Utility equipment.* All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(4) *Vehicle loading .* Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least six feet in height above the surface of the loading area or dock, as prescribed by the table below.

(5) *Solid waste.* Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(6) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year-round foliage at least four feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(7) *Underground utilities.* All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(8) *Screening fences.* All screening fences shall be 100 percent masonry.



(9) *Perimeter fence materials.* Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

TABLE INSET:

Standard	SH 47
Open storage	Prohibited
Building materials	100 percent nonmetallic
Utility equipment	Screened with landscaping or decorative elements
Vehicle loading	Screened with landscaping or decorative elements of at least six feet in height
Solid waste containers	Screened with landscaping or decorative elements
Street frontage screening	Screened by a wall or earth berm of at least three feet in height, or shrubbery of at least four feet in height
Outdoor parking	N/A
Fuel pumps	Screened with landscaping or decorative elements
Vehicle drive-up window	Screened with landscaping or decorative elements
Utility wires	Underground
Fencing	Masonry

## Section 130-28. South College Corridor Overlay District.

(a) *General purpose and description.* This district is limited to specified areas encompassing land that has already been assigned conventional zoning district classifications. It supplements the standards of the underlying conventional districts with new or different standards, which may be more restrictive. The intent is to exercise greater control over the aesthetic and functional characteristics of development along major thoroughfares, which serve as major entrances to the community where higher development standards can effectively enhance the city's image as a desirable place to live, work, and shop.

(b) *District boundaries.* The corridor overlay standards apply to the future development and use of all land within the South College Corridor. This corridor includes all land within the SC-B, South College Business and SC-R, South College Residential zoning districts found on the official zoning district map. Within 200 feet or the depth of the abutting lot, whichever is less.

(c) *Screening and general appearance standards:*

(1) *Open storage.* Open storage, as defined in the zoning ordinance, is prohibited. This includes the display of operable vehicles for sale at a dealership and inventory for sale of su Chapter

(2) *Building materials.* One hundred percent of any exterior wall shall be covered by masonry, vinyl/wood siding, glass, or other nonmetallic material, as prescribed by the table below.

(3) *Utility equipment.* All heating, ventilation, air-conditioning, and utility equipment located outside of buildings shall be effectively screened from view from any street abutting the property with dense shrubbery having year-round foliage, decorative wall, fence, or architectural element of the building.

(4) *Vehicle loading.* Vehicle loading and unloading areas shall be screened from view from any street abutting the property by a fence, wall, or architectural element of the building at least six feet in height above the surface of the loading area or dock, as prescribed by the table below.

(5) *Solid waste.* Solid waste containers that are subject to current screening requirements shall be located such that the enclosure blocks the view of the container from any street abutting the property.

(6) *Screening.* A decorative wall or landscaped earth berm at least three feet in height, or dense shrubbery having year-round foliage at least four feet in height, is required as a visual buffer along street frontages in the following circumstances.

a. Where outdoor parking areas are located within 50 feet of a certain distance from any street right-of-way, except for driveway openings providing access from the street to the parking area.

b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street.

c. Where a vehicle drive-up window faces a street.

(7) *Underground utilities.* All electric, telephone, and cable TV wires shall be buried underground from the property line to all structures being served on private or public property.

(8) *Screening fences.* All screening fences, whether required or not, that are visible from a street shall be constructed of brick, stone, concrete panels, or a combination of these materials and solid wood (not including plywood or particleboard), with the wood section of fence not to exceed 20 feet in length. Chainlink fences and corrugated metal or fiberglass panels are prohibited in all locations.

(9) *Perimeter fence materials.* Where fencing is to be located along the boundary of a subdivision abutting the corridor overlay district, the style and materials used for all portions of the fence facing the corridor or any street within the boundaries of the corridor, shall be of uniform construction across all lots so situated in the same subdivision.

TABLE INSET:

Standard	South College
Open storage	Prohibited
Building materials	100 percent nonmetallic
Utility equipment	Screened
Vehicle loading	Screened by an architectural element of at least six feet in height
Solid waste containers	Screened
Street frontage screening	Screened by a wall or earth berm of at least three feet in height, or shrubbery of at least four feet in height
Outdoor parking	Screened when visible from street right-of-way
Fuel pumps	Screened
Vehicle drive-up window	Screened
Utility wires	Underground

## **Section 130-29. MU-1, Mixed Use Residential District.**

(a) *General purpose and description.* The MU-1, Zoning District is a special and unique zoning district, which will be appropriate to smaller lots in relatively few areas of the city. The district is intended as a temporary district classification to aid in transition of certain areas of the city to a permanent zoning district classification in the future. The uses in the MU-1 District are envisioned to be primarily detached dwellings. Due to the age, previous platting, and subdivision patterns, and location of these areas, they contain a variety of residential types and uses. This district allows mobile homes and manufactured homes on individual lots and certain other dwelling types. Most of the areas zoned for MU-1 already have a high percentage of mixed residential uses. The use of this district is limited predominantly to areas platted and containing a variety of residential uses.

(b) *Permitted uses:*

- All uses permitted in a RD-5 zoning district with the addition of: Manufactured Homes on Individual Lots.

(c) *Conditional uses:*

- Any conditional use allowed in a RD-5 zoning district with the addition of: manufactured housing land lease communities.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(f) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.
- (3) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(g) *Special requirements:*

- (1) All mobile/manufactured homes shall be placed, tied down, and secured according to the standards set forth by the chief building official.
- (2) Mobile homes in licensed mobile home parks shall comply with all applicable requirements as stated in the manufactured/mobile home park ordinance (chapter 74).
- (3) All mobile/manufactured homes shall be skirted with suitable weatherized material.
- (4) Open storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).
- (5) Residential dwelling permitted in this district shall conform to standards as specified in the RD-5 district.

(6) No temporary structures, such as recreational vehicles, travel trailers, or construction trailer (excluding mobile homes) may be used for on-site dwelling purposes.

(7) Patio homes shall be permitted only on lots specified for such a use in an approved plat (see section 130-33 for criteria). Duplex and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in section 130-33.

## **Section 130-30. MU-2, Mixed Use District.**

(a) *General purpose and description.* The MU-2, Mixed Use District is a mixed land use area which was primarily a residential area at one time but has evolved into an area which has numerous nonresidential uses. The district is intended as a temporary district classification to aid in transition of certain areas of the city to a permanent zoning district classification in the future. Many of the nonresidential uses which now exist are in structures which were at one time used for residential purposes. It is the intent of this district to allow certain uses which are compatible with existing land uses.

(b) *Permitted uses:*

- Accessory buildings (refer to section 130-33(a));
- Bed and breakfast;
- Beer and wine sales;
- Boardinghouse (lodginghouse);
- Child care--Class B;
- Convenience store;
- Community center or recreational center;
- Department store;
- Duplex;
- Detached Dwelling;
- Essential municipal uses;
- Fraternity and sorority houses;
- General office use (professional, administrative);
- Government (federal or state) owned structures, facilities, and uses;
- Hardware store;
- Home occupations;
- Hospital;
- Landscape service;
- Laundromats (Self Service Washateria);
- Motorcycle sales;
- Moving company;
- Multifamily dwellings;
- Nursery (greenhouse);
- Paper and chemical suppliers;
- Patio home (zero lot line dwelling);
- Pawnshop that has been licensed to transact business by the state consumer credit commissioner under V.T.C.A., Finance Code Chapter 371;
- Place of worship;
- Printing company;
- Research labs;
- Roofing and siding company;
- Schools;
- Servants quarters;

- Sporting goods;
- Stadium;
- Tool rental;
- Townhouses;
- Trade or business school;
- Welding shop;
- Wholesale distributor.

(c) *Conditional uses:*

- Amusement arcade (video arcade);
- Auto repair/rental/sales;
- Bank and savings and loan;
- Building materials and hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- College or university;
- Country club;
- Feed store;
- Golf course;
- Greenhouse, commercial;
- Hotel or motel;
- Machine shop;
- Medical laboratory;
- Manufactured housing land lease community;
- Municipal services support facilities;
- Police station;
- Produce sales;
- Restaurant;
- Shopping center.

(d) *Lot area, height, and setback requirements.* Refer to building setbacks and lot standards, article IV, chapter 62.

(e) *Parking regulations.* Refer to access and off-street parking, article VI, chapter 62.

(f) *Other regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Establishments selling alcoholic beverages shall not be located within 300 feet of a public school, church, or a public hospital. The distance shall be measured as specified in the city Code.
- (3) Where activity has ceased for one or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of nonresidential and multifamily development, article III of chapter 62,

before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.

(4) Detached dwelling units constructed in this district shall conform to RD-5 district standards.

(5) Duplex, patio home, and townhouse dwellings permitted in this district shall conform to standards as specified in section 130-33.

(6) Wireless telecommunication facilities shall be allowed only as provided for in section 130-34.

(g) *Special requirements:*

(1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes, may be used for on-site dwelling purposes.

(2) Open storage is prohibited (except for materials for the resident's personal use or consumption, e.g., firewood, gardening materials, etc.).



## **Section 130-31 R-NC Residential-Neighborhood Conservation**

### *(a) General Purpose and Description*

The R-NC, Residential-Neighborhood Conservation District, is intended to be composed of detached dwelling units on lots of not less than five thousand (5,000) square feet. Dwellings are designed primarily for residential use and do not easily lend themselves to other types of nonresidential uses or rental property. Other uses may be permitted in this district which are compatible to residential uses and occupy structures designed for their intended use and do not infringe upon the residential uses.

### *(b) Permitted Uses:*

- Accessory Structures
- Detached Dwelling Units w/ no more than 2 un-related people
- Essential Municipal Uses
- Group Home / Community Home
- Government (Federal or State) Owned structures, facilities, and uses
- Home Occupations
- Place of Worship
- Private Utilities (no storage yards)
- Real estate sales offices during the development of residential subdivisions, but not to exceed three (3) years
- Schools
- Temporary Structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.

### *(c) Conditional Uses:*

- Accessory Dwelling Unit
- Accessory Structure if greater than the standards set forth in Section 130-3(a)
- Bed and Breakfast
- Boarding (Lodging) House
- Child Care - Class B
- Community Center /Recreation Center
- Country Club or Golf Course
- Detached Dwelling Units w/ no more than 4 un-related people
- Duplex
- Funeral Home/Mortuary
- Municipal Services Support Facilities
- Neighborhood Services
- Nursing Home (Retirement Home)
- Patio Home (Zero Lot Line Dwelling)
- Police Station
- Professional Offices (In the Eastside Historic District, the Building must also be used as a primary dwelling by the owner, managing partner or majority shareholder of the business occupying the building.)

- Townhouses

(d) *Lot Area, Height, and Setback Requirements:*

Refer to Building Setbacks and Lot Standards, Article IV, Chapter 62, Bryan City Code.

(e) *Parking Regulations:*

Refer to Access and Off-Street Parking, Article VI of Chapter 62, Bryan City Code.

(f) *Other Regulations:*

- (1) As established by all other applicable sections and/or ordinances.
- (2) Wireless telecommunication facilities shall be allowed only as provided for in Section 130-34.
- (3) Foster children residing in licensed foster care homes shall not be included in the calculation of the number of unrelated individuals living together in a single dwelling unit. Licensed foster care homes shall comply with any state mandated restrictions on the number of children permitted to reside in the dwelling unit.
- (4) Any dwelling unit permitted in this zoning district may have a second family comprised entirely of individuals related by blood, marriage or adoption, residing therein on a temporary basis for a period not exceeding six (6) months in any calendar year.

(g) *Special Requirements:*

- (1) No temporary structures, such as recreational vehicles, travel trailers, construction trailers, or mobile homes may be used for on-site dwelling purposes
- (2) Open storage is prohibited (except for materials for the resident's personal use or consumption, i.e. firewood, gardening materials, etc.)
- (3) Where activity has ceased for one (1) or more years on a property where the most recent land use is a permitted use in this district, a site plan shall be filed in accordance with the provisions of the Non-Residential & Multi-Family Development, Article III of Chapter 62, Bryan City Code, before activity on the property may resume. Detached dwellings, patio homes, townhouses, and duplexes are exempt from this provision.
- (4) Duplex, patio home, and townhouse dwellings permitted conditionally in this district shall conform to standards as specified in Section 130-33.
- (5) Professional offices, permitted conditionally in this district shall have one driveway. The minimum dimensions shall be 37 feet long by 18 feet wide so as to accommodate four vehicles on the site.
- (6) Professional offices, conditionally permitted in this district shall have a minimum of eight percent of the site landscaped.

## **Section 130-32. Buffer area requirements.**

(a) When it is determined that a zoning district abuts a non-compatible zoning district along a mutual side or rear property line or where separated only by an alley, setbacks shall be greater than the minimum requirements set forth in section 130-31. The purpose of the additional setback is to establish a buffer area to help mitigate noise, lighting, and other possible adverse impacts. No development shall be authorized within the buffer area except for required or permitted landscaping and screening, stormwater detention facilities, and pedestrian walkways. The increased setbacks, which are measured from the property line, shall be required on the property in the higher intensity zoning district, and shall be observed at the time of construction. These buffer requirements are in addition to the screening standards set forth in section 130-36.

(b) The depth of the side and rear buffer setbacks shall be in accordance with the following:

- (1) One hundred feet in the I, Industrial District and for Municipal Services Support Facilities when siding or backing on to R, Retail, C-1, Office, MU-2, Mixed Use District and all Residential Districts.
- (2) Seventy-five feet in the C, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all Residential Districts.
- (3) Fifty feet in the R, Retail District when siding or backing on to all Residential Districts.
- (4) Twenty-five feet in C-1, Office District when siding or backing on to all Residential Districts.
- (5) Twenty-five feet in MF, Multiple-Family District when siding or backing on to all other Residential Districts of less intensity (RD-7, RD-5, MU-1).
- (6) Twenty-five feet in all nonresidential districts when adjacent to a detached dwelling unit residence located within an A-O, District and no farther than 100 feet from the nonresidential district boundary.

(c) The depth of the buffer area may be reduced by the equivalent area of landscaping provided within the buffer area. No reductions in the setback area will be allowed where no landscaping is provided parallel to the property lines. In no event shall the reductions eliminate the standard setbacks provided in section 130-31. Landscaping used in place of screening, allowed in section 130-36, shall not be used to reduce the buffer area. Square feet of coverage shall be based on the standards provided in all other applicable sections and/or ordinances. The request for reducing the buffer shall be submitted with a landscape plan. The minimum depth of the reduced buffer shall be:

- (1) Sixty feet in the I, Industrial District and Municipal Services Support Facilities when siding or backing on to R, Retail, C-1, Office, MU-2, Mixed Use, and all Residential Districts.
- (2) Forty-five feet in the C, Commercial District and for Essential Municipal Uses when siding or backing on to C-1, Office and all Residential Districts.
- (3) Thirty feet in the R, Retail District when siding or backing on to all Residential Districts.
- (4) Fifteen feet in the C-1, Office District when siding or backing on to all Residential Districts.

- (5) Fifteen feet in the MF, Multiple-Family District when siding or backing on to all other Residential Districts of less intensity (RD-7, RD-5, MU-1).
- (d) The depth of the side and rear buffer setbacks, with landscaping, for the Highway 47 Corridor Overlay shall be in accordance with the following:
- (1) Sixty feet in the I, Industrial District when siding or backing on to R, Retail, C-1, Office, MU-2, Mixed Use, and all Residential Districts.
  - (2) Fifty feet in the C, Commercial District when siding or backing on to C-1, Office and all Residential Districts.
  - (3) Fifty feet in the R, Retail District when siding or backing on to all Residential Districts.
  - (4) Fifty feet in the C-1, Office District when siding or backing on to all Residential Districts.
  - (5) Fifty feet in the MF, Multiple-Family District when siding or backing on to all other Residential Districts of less intensity (RD-7, RD-5, MU-1).
  - (6) One hundred feet in the I, Industrial District and for Municipal Services Support Facilities when siding or backing on to R, Retail, C-1, Office, MU-2, Mixed Use District and all Residential Districts.

## **Section 130-33. Conditional use permits.**

(a) *Purpose.* The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.

(b) *Authority.* The planning and zoning commission may approve a conditional use permit for a use in any district in which such use is authorized under the conditional use list following proper application, and after notice to landowners within 200 feet of the subject property ten days before the date of the public hearing and in accordance with the procedures and criteria herein established.

(c) *Application and site plan required.* No building permit for a use authorized only as a conditional use within a zoning district shall be issued unless the applicant obtains a conditional use permit from the planning and zoning commission. The application for a conditional use permit shall be accompanied by a site plan as required in nonresidential and multifamily development, article III of chapter 62. The planning and zoning commission may require additional information or plans as necessary for review.

(d) *Review and evaluation criteria:*

(1) The planning and zoning commission shall not approve a plan for development of a conditional use if it finds the proposed development:

- a. Does not conform with applicable regulations and standards established by this chapter;
- b. Is not compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features;
- c. Potentially creates greater unfavorable effects or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use;
- d. Adversely affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area;
- e. Fails to reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts;
- f. Adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs;
- g. Fails to provide adequate and convenient off-street parking and loading facilities;
- h. Fails to conform with the objectives and the purpose of the zoning district in which the development is located;

- i. Will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, for reasons specifically articulated by the commission; or
  - j. The premises or structures are not suitable for the proposed use.
- (2) Conditional use site plans considered by the planning and zoning commission shall be approved only after the planning and zoning commission finds that the proposed development, if completed as proposed, will comply with all applicable provisions of this chapter and all conditions deemed necessary by the planning and zoning commission.
- (3) The planning and zoning commission may establish such conditions of approval as are necessary to assure that the use meets the criteria set forth in subsection (a) of this section, which may include without limitation requirements for special yards, lot sizes, open spaces, buffers, fences, walls or screening; requirements for installation and maintenance of landscaping or erosion control measures; requirements for street improvements and dedications, regulation of vehicular ingress and egress, and traffic circulation; regulation of signs; regulation of hours or other characteristics of operation; establishment of development schedules or time limits for performance or completion; and such other conditions as the planning and zoning commission may deem necessary to ensure compatibility with surrounding uses and to preserve the public health, safety, and welfare. In imposing such conditions, the planning and zoning commission may act upon variance requests, subject to the same standards governing variances under section 130-42 of these regulations.

(e) *Compliance:*

- (1) In granting a conditional use permit, the planning and zoning commission may impose conditions which shall be complied with by the owner or grantee before a certificate of occupancy may be issued by the chief building official for use of the building on such property pursuant to such conditional use permit and such conditions precedent to the granting of the certificate of occupancy. Any special conditions shall be set forth in writing by the planning and zoning commission in conjunction with approval of the conditional use permit.
- (2) No conditional use permit shall be granted unless the applicant, owner or grantee of the conditional use permit is willing to accept and agree to be bound by and comply with the written requirements of the conditional use permit, as attached to the site plan drawing (or drawings) and as approved by the planning and zoning commission. A conditional use permit shall remain valid until such time as one of the following actions is taken:
- a. The property is rezoned and the site is no longer listed as a conditional use;
  - b. Another conditional use permit is approved for the site;
  - c. The use of the premises changes; or
  - d. Access and construction-related permits necessary for completion of any site development plan have not been issued within 12 months of the site review committee's approval (refer to nonresidential and multifamily development, article III of chapter 62).
- (3) No building, premises, or land used under a conditional use permit may be substantially changed unless a separate conditional use permit is granted for the change. In the event a change is not considered substantial, the chair of the site review committee

may approve the change or forward to the site review committee if the change affects the health, safety, or welfare of the public.

(4) Failure to implement and maintain the conditions as specified by the planning and zoning commission in granting a conditional use permit is punishable by the provisions of section 130-44.

(f) *Appeal to city council.* Approval or denial of an application for a conditional use permit, may be appealed to the city council by the applicant for the permit or any owner of property located within 200 feet of the subject property. Written notice of appeal specifying the grounds for the appeal must be delivered to planning services within ten calendar days after the date of the planning and zoning commission's decision.

(g) *Additional regulations for certain uses.* The following additional conditions and procedures shall apply to the uses listed below: manufactured housing land lease communities: The proposed use shall comply with the standards set forth in the manufactured housing land lease communities, new developments ordinance, section 130-29.

## **Section 130-34. Special and supplementary regulations.**

### **(a) *Accessory structures:***

(1) In a RD, MF, or MU-1 district, an accessory structure or use is a subordinate or incidental

structure, attached to or detached from the main structure without separate kitchen facilities, not used for commercial purposes and not rented. Accessory uses permitted in residential districts include:

- a. Storage or work sheds and gazebos;
- b. Detached garages;
- c. One antenna (amateur radio, CB radio, or TV reception) and/or one satellite dish located in the rear yard only or on the roof (only one satellite dish per residential lot) including any tower or other supporting structure;
- d. Private open space or other recreational amenities operated by a homeowners association.

(2) In other districts, an accessory structure is a subordinate structure, the use of which is incidental and is permitted when used only in conjunction with the main structure.

(3) Accessory uses prohibited in public rights-of-way of all zoning districts are as follows:

- a. Fences.
- b. Basketballs goals including those of which are portable.
- c. All other objects with the exception of infrastructure or facilities owned by a utility company, governmental signs or utilities, mailboxes, and projecting signs within the DT-N, Downtown North, DT-S, Downtown South, and DT-C, Downtown Civic Zoning District, and in all other zoning districts where attached to a legally nonconforming building, lawfully constructed on the property line immediately adjacent to the public right-of-way, and provided the projecting sign satisfies all of the requirements of section 62-251, special use license, of the site development review ordinance. For the use of this chapter, projecting signs shall be defined as the following: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign. Any accessory use, including projecting signs, within a Texas Department of Transportation (TxDOT) right-of-way must also obtain permission from that authority.

(4) The combined square footage for accessory structures on a single property shall be limited in size providing the following:

- a. Seven hundred twenty-five square feet maximum when placed on a lot less than 7,001 square feet.
- b. One thousand twenty-five square feet maximum when placed on a lot between 7,001 square feet and one acre.
- c. One thousand five hundred square feet maximum when placed on a lot greater than one acre.
- d. One thousand five hundred and one square feet and greater will require a conditional use permit.



(5) Accessory structures must be designed and constructed so that they are in keeping with the general architecture of the main structure, and may not exceed the height of the main structure.

(b) *Accessory dwelling units:*

(1) Accessory dwelling units may be allowed by conditional use permit as an incidental residential use of a structure on the same lot as the main dwelling unit and used by the same person or persons of the immediate family, or servants employed on the premises, and meet the following standards:

- a. Accessory dwelling units must be designed and constructed so that they are in keeping with the general architecture and building material of the main structure.
- b. Manufactured homes are not permitted as accessory dwellings.
- c. The accessory dwelling unit must be constructed to the rear of the main dwelling, separate from that upon which the main dwelling is constructed.
- d. The accessory dwelling unit may be constructed only with the issuance of a building permit.
- e. The accessory dwelling unit may not be sold separately from sale of the entire property, including the main dwelling unit, and shall not be rented or leased and may not be issued utility meters separate from the main structure.
- f. The square footage of the accessory dwelling unit cannot exceed 1,000 square feet, nor be less than 400 square feet.
- g. A minimum of one additional parking space shall be provided for each accessory dwelling unit located on the premises.

(c) *Special height limitations.* The height limitations specified by this chapter and in building setbacks and lot standards, article IV, chapter 62, do not apply to cooling towers, chimneys, vent stacks, water stand pipes and tanks, steeples, spires, belfries, cupolas, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(d) *Modular buildings.* Modular buildings are allowed in any zoning district providing the following requirements are met:

- (1) The building meets or exceeds all building code requirements that apply to other buildings concerning on-site construction.
- (2) The building conforms to all applicable zoning standards for the respective zoning district.
- (3) The building is affixed to a permanent concrete slab or grade beam foundation.
- (4) The building is skirted with matching weatherized material if any space is exposed between the structure and the slab or ground.
- (5) The chief building official is so notified in writing for the purpose of establishing procedures for the inspection, issuing of building permits and the compliance with the Texas Industrialized Housing and Buildings Act (V.T.C.A., Occupations Code Chapter 1202).

(e) *Visibility at intersections in all districts.* In any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner to impair a vehicle driver's vision at intersections

(streets, alleys, and driveways), within a triangle defined by the requirements of the American Association of State Highway and Transportation Officials.

(f) *Patio home requirements.* (See also chapter 62).

(1) All patio home developments shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet.

(2) Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with city construction standards.

(3) Utilities shall be provided for each dwelling unit on an individual basis.

(4) Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with city standards of construction.

(5) Any developer whose property has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

(g) *Townhouse requirements.* (See also chapter 62).

(1) *Streets.* All townhouse subdivisions shall have a direct access street to at least one dedicated and accessible public street having a right-of-way width of not less than 50 feet. Alleys, where used, shall have a minimum right-of-way of 20 feet and shall be developed with a concrete pavement in accordance with city construction standards.

(2) *Utilities.* Utilities shall be provided for each dwelling unit on an individual basis.

(3) *Fire hydrants.* Standard fire hydrants shall be installed as part of the water distribution system per specifications of the State Department of Insurance and in accordance with city standards of construction.

(4) *Covenants.* Any townhouse developer whose development has a common maintenance or ownership agreement shall be required to file all covenants and declarations governing those agreements at the time of platting. The final plat shall reflect the volume and page reference of such covenants and declarations filing.

(5) *Townhouse groupings.* Townhouse groupings shall not exceed a length of more than 300 feet for any one group.

(h) *Duplex requirements.* (See also chapter 62). Duplex units shall conform to the requirements for detached dwelling unit residential development as specified in each district unless otherwise specified in chapter 62.

(i) *Neighborhood services.*

(1) It is the intent of this chapter to preserve existing establishments that serve a small neighborhood area and to protect the surrounding residential land use from the adverse impacts of a nonresidential land use. Neighborhood service establishments requesting a conditional use permit shall provide a site plan in accordance with the full site review provisions of the nonresidential and multifamily development, article III, chapter 62. Neighborhood services shall be limited to the following uses:

- a. Grocery store;

- b. Laundromat (self-service laundry, washateria);
  - c. Dry-cleaning drop-off (no onsite dry-cleaning);
  - d. Beauty shop or barbershop; or
  - e. Automated teller machine.
- (2) Neighborhood services may be connected to or separate from a residential use located on the same lot or parcel. Such establishments shall:
- a. Be limited in gross floor area to 5,000 square feet (business only);
  - b. Not include fuel sales or other fuel dispensing or storage operations;
  - c. Have no liquor sales; and
  - d. Be permitted beer and wine sales for off-premises consumption only.

(j) *Construction standards:*

- (1) Buildings with metal exteriors are prohibited within all residential districts, with the exception of accessory structures, federal or state government owned structures, facilities and uses; manufactured housing when permitted; and temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.
- (2) All buildings within the C-1, Office and R, Retail Districts must have at least 50 percent of facades covered by masonry/brick construction or vinyl/wood siding or other nonmetallic material. Exceptions include federal or state government owned structures, facilities and uses; and temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work.
- (3) Structures, with foundations constructed after the effective date of this chapter, that allow areas for crawl space are required to have skirting or permanent enclosures. Skirting when installed shall be of material suitable for exterior exposure and contact with the ground. Permanent perimeter enclosures shall be constructed of materials as required by the city building code for regular foundation construction. Skirting will be constructed of fire resistant material. Skirting shall be installed in accordance with the skirting manufacturer's installation instructions. Skirting shall be adequately secured to assure stability, to minimize vibration and susceptibility to wind damage and to compensate for possible frost heave. Skirting shall follow all FEMA regulations regarding materials and construction in special flood hazard areas.

## Section 130-35. Wireless telecommunication facilities.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alteration* shall mean any modification, replacement, or reconstruction that materially increases the height or any other dimension of a WTF.

*Antenna* shall mean any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio frequency signals:

(1) Omni-directional antenna (also known as a "whip" antenna) transmits and receives radio frequency signals in a 360 degree radial pattern.

(2) Directional antenna (also known as a "panel" antenna) transmits and receives radio frequency signals in a specific directional pattern of less than 360 degrees.

(3) Parabolic antenna (also known as a "dish" antenna or satellite dish) is a bowl-shaped device for the reception and/or transmission of radio frequency signals in a specific directional pattern.

*Attached wireless telecommunication facility* shall mean a wireless telecommunication facility that is affixed to an existing structure that is not primarily used for the support or attachment of a wireless telecommunication facility and is not a normal component of such a facility.

*Collocation* shall mean when more than one wireless telecommunications provider shares a wireless telecommunications support structure.

*Compound* shall mean the fenced WTF area which may be a portion of a parcel or site, or the entire parcel or site.

*Direct-to-home services* shall mean the distribution or broadcasting or programming or services by satellite directly to the subscriber's premises without use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite; examples are direct broadcast satellites (DBS), multichannel multipoint distribution system (MMDS), and television broadcast stations (TVBS).

*Existing support structure* shall mean any structure existing prior to the adoption of the ordinance from which this chapter is derived that currently supports or can support a wireless telecommunication facility.

*FAA* shall mean Federal Aviation Administration.

*FCC* shall mean Federal Communications Commission.

*Height* shall mean the distance measured from ground level at the base of a wireless telecommunication facility to the highest point on the facility including any antenna or related equipment.

*Historic resource* shall mean any district, structure or site designated as historically significant by any lawfully authorized local, state or federal historic preservation entity or governmental entity, including the city.

*Intermediate facility* shall mean a WTF measuring no more than 110 feet (or 33 meters) but greater than 35 feet (or 10.5 meters) in height.

*Major facility* shall mean a WTF measuring greater than 110 feet (or 33 meters) in height.

*Minor facility* shall mean a WTF measuring 35 feet (or 10.5 meters) or less in height (includes private or commercial ham radio operators, repeaters, whip, directional, or parabolic antennas or any other small antenna facility).

*Related equipment* shall mean all equipment or structures ancillary to the transmission and reception of voice and data via radio frequencies; such equipment or structures may include, but are not limited to, cable, conduit and connectors, cabinets, and fencing.

*Service provider* shall mean any company, corporation, alliance, individual or other legal entity that provides a wireless telecommunication service directly to the public for a fee or to such classes of users as to be effectively available directly to the public regardless of the facilities used; services include, but are not limited to portable phones, car phones, pagers, digital data transmission, or radio or television communications.

*Stealth technology* or *stealth facility* shall mean design technology that blends the WTF into the surrounding environment, so it is unrecognizable as a telecommunications facility; examples of stealth facilities include but are not limited to architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements such as church spires or window wall, and antenna structures designed to resemble light poles or flagpoles.

*Support structure* shall mean any structure that supports a wireless telecommunication facility; support structure types include, but are not limited to, any existing or newly constructed structure such as buildings, water towers, light poles, stanchions, monopoles, lattice towers, wood poles or guyed towers.

*Transmission tower* shall mean a wireless telecommunications support structure designed primarily for the support and attachment of a wireless telecommunications facility. Transmission towers include:

- (1) *Monopole tower.* A self-supporting structure composed of a single spire used to support telecommunications antenna and/or related equipment.
- (2) *Lattice tower.* A self-supporting three or four sided, open, steel frame structure used to support telecommunications antenna and/or related equipment.
- (3) *Guyed tower.* An open, steel frame that requires wires and anchor bolts for support.

*Wireless telecommunications facility (WTF)* shall mean an unstaffed facility operating for the transmission and reception of low-power radio signals consisting of an equipment shelter or cabinet, a support structure, antennas (e.g., omni-directional, panel/directional, or parabolic) and related equipment.

(b) *Zoning for WTFs.*

(1) *WTF use categories.* Wireless telecommunication facilities are allowed and encouraged to locate in the city. In order to expedite the siting process for WTFs and to accommodate the various regulations for handling these facilities according to the FCC, the planning services staff has determined three general use categories for WTFs. The use categories are minor facility, intermediate facility, and major facility as follows:

a. *Minor facility.*

1. A new transmission tower 35 feet (or 10.5 meters) or less in height;
2. Parabolic antenna one meter or less;
3. Parabolic antenna over one meter and less than or equal to two meters;
4. Omni-directional antenna (whip antenna) six inches in diameter or less and not extending over 12 inches above support structure;

5. Directional antenna one meter or less measured across the longest dimension and not extending over 12 inches above support structure;
6. Direct-to-home service antenna and citizen's radio band antenna;
7. Stealth facility 35 feet (or 10.5 meters) or less in height.









b. *Intermediate facility.*


1. A new transmission tower greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height;
2. Parabolic antenna over two meters;
3. Omni-directional antenna (whip antenna) greater than six inches in diameter and/or extending 12 inches above the support structure;
4. Directional antenna over one meter measured across the longest dimension and extending over 12 inches above support structure;
5. Stealth facility greater than 35 feet (10.5 meters) and less than or equal to 110 feet (33 meters) in height.












c. *Major facility.*


1. A new transmission tower greater than 110 feet (33 meters) in height;
2. Stealth facility greater than 110 feet (33 meters) in height.

### Wireless Telecommunication Facilities Siting Matrix

Type of WTF	Zoning													
<div>✓ = permitted use</div> <div> = conditional use permit</div> <div>8= not permitted</div>	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts			
											Downtown Historic District	Eastside Historic District	Villa Maria Corridor	
Minor Facility -														
a. new transmission tower ≤ 35 feet (10.5 meters) in height				✓	✓	✓	✓	✓				8		
b. parabolic antenna 1 meter or less	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓←	✓←	✓←	
c. parabolic antenna over 1 meter and under 2 meters	✓ ←	✓ ←	✓ ←	✓ ←	✓ ←	✓ ←	✓	✓	✓ ←	✓ ←	✓ ←	8	✓ ←	
d. omni-directional antenna (whip antenna) 6” in diameter or less and not extending 12’ above support structure	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓←	✓	














Type of WTF	Zoning												
<div>✓ = permitted use</div> <div> = conditional use permit</div> <div>8= not permitted</div>	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts		
											Downtown Historic District	Eastside Historic District	Villa Maria Corridor
Minor Facility -													
e. directional antenna 1 meter or less measured across the longest dimension	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓ ←	✓
f. direct-to-home service antenna and citizen's band radio	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
g. stealth facility ≤ 35 feet (10.5 meters) in height	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
← Facility must be screened from public right-of-way per Section 27.A.3.B.4 ↑ Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is under 5 acres.													

Type of WTF	Zoning													
✓ = permitted use  = conditional use permit 8= not permitted	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts			
											Downtown Historic District	Eastside Historic District	Villa Maria Corridor	
Intermediate Facility -														
a. new transmission tower > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height								✓				8		
b. parabolic antenna over 2 meters	✓ ←	✓ ←	✓ ←	✓ ←	✓ ←	✓ ←	✓ ←	✓	✓ ←	✓ ←	✓ ←	8	✓ ←	

Type of WTF	Zoning													
<div>✓ = permitted use</div> <div> = conditional use permit</div> <div>8= not permitted</div>	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts			
											Downtown Historic District	Eastside Historic District	Maria Corridor	Villa
Intermediate Facility -														
c. omni-directional antenna (whip antenna) greater than 6” in diameter and/or extending 12’ above support structure	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	8	✓	
d. directional antenna over 1 meter measured across the longest dimension	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	8	✓	
e. stealth facility > 35 feet (10.5 meters) and ≤ 110 feet (33 meters) in height	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
← Facility must be screened from public right-of-way per Section 27.A.3.B.4 ↑ Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is under 5 acres.														

Type of WTF	Zoning													
✓ = permitted use 🔍 = conditional use permit 8= not permitted	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts			
											Downtown Historic District	Eastside Historic District	Maria Corridor	Villa
Major Facility-														
a. new transmission tower > 110 feet (33 meters) and ≤ 200 feet in height	🔍	🔍	🔍	🔍	🔍	🔍	🔍	✓	🔍	🔍	🔍	8	🔍	



Type of WTF	Zoning												
✓ = permitted use  = conditional use permit 8= not permitted	A-O	RD-7	RD-5	MF	O	R	C	I	MU-1	MU-2	Overlay Districts		
											Downtown Historic District	Eastside Historic District	Villa Maria Corridor
Major Facility-													
b. stealth facility > 110 feet (33 meters) and ≤ 200 feet in height								✓					
← Facility must be screened from public right-of-way per Section 27.A.3.B.4 ↑ Platting is required for any WTF which must go through SDRC and is locating on unplatted or subdivided property that is under 5 acres.													

(c) *Conditional use permits.* Some minor transmission towers and all intermediate and major transmission towers require a conditional use permit (CUP) from the planning and zoning commission. The planning and zoning commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public. The criteria in section 130-32 will govern the issuance of conditional use permits for WTFs. In addition to the standard criteria the following additional factors shall be considered when determining whether to grant a conditional use permit for WTFs:

- (1) Height of the proposed tower, surrounding topography and surrounding tree coverage and foliage as they relate to:
  - a. Skyline impact, examining whether the proportions of the structure appear to "loom" over or blend in with the surrounding environment; and
  - b. Shadow impact, whether or not the proposed tower will cast shadows that would prevent the reasonable use or enjoyment of surrounding properties.
- (2) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (3) Proximity of the tower to residential structures and residential district/boundaries.
- (4) Economic impact on adjacent and nearby properties.
- (5) Proposed ingress and egress.
- (6) Availability of suitable alternative, existing support structures.

## **Section 130-36. Manufactured housing land lease communities - new development.**

(a) *Permits for new manufactured housing land lease communities.* Manufactured housing land lease communities created on or after January 1, 2000, shall be required to be licensed in accordance with the standards in this chapter. It shall be unlawful for any person to connect utilities to or to occupy a manufactured home in a new manufactured home in a new manufactured housing land lease community within the city limits unless the community is duly licensed under the terms of this chapter. Licenses shall be issued and renewed annually by the city building services department. Application for a license shall be made in writing, signed by the applicant, and accompanied by an affidavit of the applicant as to the truth of the application. Applications shall include the name and address of the applicant, the location and legal description of the community, and a master plan of the community. Additionally, a deposit fee, based on the proposed number of lease lots within the community, will be required at time of application. The chief building official or his or her agent shall renew licenses annually following a satisfactory inspection of the property for compliance with this chapter. Whenever, upon inspection of the property, the chief building official finds conditions or practices which are in violation of this chapter, written notice shall be given to the license holder. The notification shall state that such conditions or practices must be corrected within a specified period of time, based on the nature and severity of the violation. At the end of the specified time, the chief building official shall re-inspect the property for compliance. Failure to correct the conditions or practices within the specified time shall result in a suspension of the license. The license holder will be issued written notice of the suspension. Upon receipt of the notice of suspension, such person shall cease operation of the manufactured housing land lease community. A manufactured housing land lease community, which does not conform to the regulations of the zoning district in which it is located, shall be deemed a nonconforming use and subject to section 130-40. A lapse of a current license shall be considered as an abandonment of the nonconforming status.

(b) *Inspections of manufactured housing land lease communities.* The chief building official or his or her agent is hereby authorized to make such inspections as are necessary to determine satisfactory compliance with this chapter. The chief building official or his or her agent shall have the authority to enter upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter. It shall be the duty of the land lease community management to give access to the inspector to all lots during normal business hours.

(c) *Zoning for manufactured housing land lease communities.* New development of a manufactured housing land lease community shall require a conditional use permit (CUP) from the planning and zoning commission. The planning and zoning commission may place additional conditions on the site where it deems necessary to do so to protect the health, safety and general welfare of the public and where such conditions will promote and uphold the city comprehensive plan. The planning and zoning commission may also take into consideration the proposed location of the manufactured housing land lease community in relation to present and anticipated future land use. The criterion in section 130-32 will govern the issuance of conditional use permits in the following zoning districts:

TABLE INSET:

A-O	Agricultural-Open District
MF	Multiple-Family District
MU-1	Mixed-Use Residential District

(d) *Development standards for manufactured housing land lease communities.*

(1) *Housing type standards.* To ensure the protection of the health, safety, and general welfare of the public, only HUD-Code manufactured homes, as defined by this chapter, shall be permitted to locate within manufactured housing land lease communities. Mobile homes and recreational vehicles, as defined by this chapter, shall not be permitted within a manufactured housing land lease community.

(2) *Skirting requirements.* To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes shall have skirting permanently installed and extending to the ground. Skirting material to be a durable, exterior material consistent with the exterior cladding of the home. All tow bars, wheels and axles shall be removed when the manufactured home is installed.

(3) *Foundation requirements.* To ensure the protection of the health, safety, and general welfare of the public, all manufactured homes within manufactured housing land lease communities shall be installed on a "properly engineered foundation system" which meets the manufacturer's installation requirements and the Texas Manufactured Housing Standards Act (V.T.C.A., Occupations Code Chapter 1201).

(4) *Maximum density standards.* To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, the density of any manufactured housing land lease community shall be no greater than eight units per acre.

(5) *Front setback requirements.* A setback area facing and abutting a street and/or sidewalk and extending across the front of a lot between the side lot lines and having a minimum horizontal depth of ten feet. The setback shall be measured from the inside edge of the adjacent pavement, to the face of the manufactured home.

(6) *Rear setback requirements.* A setback area located on a lot extending across the rear of the lot between the side lot lines and having a minimum horizontal depth of ten feet. The setback is measured from the rear lot line to the face of the manufactured home.

(7) *Building separation requirements.* To provide adequate privacy and to ensure the protection of the health, safety, and general welfare of the public, separation between manufactured homes shall be a minimum of 20 feet. Separation between manufactured homes shall be measured from the face of each structure. Separation between manufactured homes and accessory structures or between accessory structures (i.e., storage buildings, detached carports or garages) shall be a minimum of ten feet, and shall be measured from the structure's eaves.

(8) *Parkland requirements.* All residential subdivisions in the city limits of the city shall be required to provide for the parkland needs of future residents in accordance with Parkland Dedication Ordinance No. 690, and section 25-12 Parkland Dedication Requirements of the Subdivision Development Ordinance No. 1074.

(9) *Common open area requirements.* To provide adequate recreational area for the residents of a manufactured housing land lease community, the following standards shall apply:

- a. For communities with fewer than 20 lease lots, no minimum open recreational area will be required.
  - b. For communities with greater than 20 lease lots, a minimum of 250 square feet per lease lot will be required to be dedicated, improved and maintained for the recreational use of the residents of the community. The area dedicated for common open areas shall not include the yard space of individual lease lots, street rights-of-way, required buffer areas or parking areas. The common open areas required shall be disbursed throughout the community to provide safe and easy access to all residents. No common open area shall be further than 500 feet from any dwelling unit within the community.
- (10) *Screening requirements.* To conserve and protect the privacy and value of adjacent properties, a screening fence is required for all manufactured housing land lease communities. The criterion in section 130-40, will govern the location, materials and maintenance of the screening fence.
- (11) *Buffer area requirements.* To conserve and protect the privacy and value of adjacent properties, buffer areas shall be required for all manufactured housing land lease communities. The criterion in section 130-30, will govern the depth of side and rear buffer setbacks. In addition, a minimum 50-foot landscaped buffer area shall be provided along main entrances to the community from public rights-of-way. These buffer areas shall be landscaped in accordance with all other applicable sections and/or ordinances.
- (12) *Landscaping requirements.* Landscaping requirements for entry areas, common recreational areas, and buffer areas shall be the same as required for commercial developments in the city. The criteria set forth in all other applicable sections and/or ordinances will govern the standards for landscaping. In addition to these requirements, the land lease community shall be required to provide and maintain a minimum of one canopy tree (at minimum two-inch caliper size), either existing or new, for each individual lease lot.
- (13) *Public street requirements.* The criterion in section 130-31, will govern the standards for public streets within manufactured housing land lease communities.
- (14) *Private street requirements.* Private streets within a manufactured housing land lease community shall have a minimum width of 20 feet, and constructed of concrete or asphalt. Design of private streets shall be reviewed and approved by engineering services. Block length between intersections of through streets shall not exceed 1,200 feet. Private streets shall be named and numbered in accordance with city addressing standards for emergency vehicle access.
- (15) *Public walkway requirements.* Public walkways shall be installed by the developer to provide access from each lease lot to all public amenities within the manufactured housing land lease communities, including but not limited to, visitor parking, community buildings, common open areas, etc. Public walkways shall be constructed of all weather materials, and meet all applicable handicap accessibility guidelines. Public walkways must be physically separated from streets.
- (16) *Parking requirements.* The following standards apply to parking required for individual lease lots as well as separate spaces designated for visitor parking. No on-street parking shall be allowed within manufactured housing land lease communities.
  - a. *Residential parking.* To provide adequate residential parking, each lease lot shall accommodate the following:

1. *Single wide lots.* A minimum of two vehicles on a paved surface by providing one of the following options:

- (i) A two car carport or garage;
- (ii) A driveway measuring 12 feet wide by 37 feet deep; or
- (iii) A driveway measuring 18 feet wide by 18 feet, six inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

2. *Double wide lots.* A minimum of three vehicles on a paved surface by providing one of the following options:

- (i) A three car carport or garage,
- (ii) A driveway measuring 12 feet wide by 55 feet, six inches deep, or
- (iii) A driveway measuring 27 feet wide by 18 feet, six inches deep. Driveway dimensions shall be measured from the interior edge of paving or sidewalk.

b. *Visitor parking requirements* . To provide adequate visitor parking, a minimum of one parking space per four lease lots shall be provided in common parking areas. The parking and circulation criterion in section 62-297 of the access and off-street parking, article VI, chapter 62 will govern the design and standards for common parking areas.

(17) *Storage requirements* . To provide adequate and safe storage of personal items, a storage building providing a minimum of 80 square feet of storage shall be provided on each lease lot. Storage buildings shall be of uniform and consistent design among all lease lots, and are to be placed on the lot in such a manner to assure adequate separation between structures. No storage is to be permitted underneath the manufactured home.

(18) *Floodplain requirements* . To provide adequate protection against flooding, all manufactured land lease communities shall be in compliance with section 46-338.

(19) *Fire protection* . The manufactured housing land lease communities shall be subject to the rules and ordinances of the city fire prevention authority and codes.

(20) *Water supply* . Individual water riser pipes shall be so located on each lease lot so that the water connection to the manufactured home will approximate a vertical position. Water connections shall include a cut-off valve before the line enters the home.

(21) *Sanitary sewer requirements* . All sewer lines shall be located in trenches of sufficient depth to be free of breakage and be separated from the water supply system by a safe distance in accordance with the city plumbing code. Sewers shall be at a grade that will ensure a velocity of two feet per second when flowing full. All sewer lines shall be constructed of materials in accordance with the city plumbing code, have watertight joints, and shall be adequately vented. Each manufactured home shall be provided with at least a four-inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each lease lot so that the sewer connection to the manufactured home drain outlet will approximate a vertical position. The sewer connection shall have a nominal inside diameter of at least three inches, and the slope of any portion thereof shall be at least one-quarter inch per foot. The sewer connections shall consist of one pipeline only without any branch fittings. All materials used for sewer connections shall be semi-rigid, corrosive resistant, nonabsorbent and durable. Provisions shall be made for plugging the sewer riser pipe when a manufactured home does not occupy the lease lot. Surface

drainage shall be diverted away from riser. The rim of the riser pipe shall extend at least two inches above the ground elevation.

(22) *Electrical requirements* . The power supply to a manufactured housing land lease community shall be installed and maintained in accordance with the city electrical code and BTU service entrance requirements. All manufactured housing land lease communities and every manufactured home within shall contain an electrical wiring system consisting of wiring, fixtures, equipment, and appurtenances which shall be installed and maintained in accordance with the current edition of the national electrical code governing such systems. The city electrical inspector shall make inspection of the service connections to the manufactured home.

## **Section 130-37. Screening fence standards.**

(a) *Purpose.* To encourage the most appropriate use of land and conserve and protect the privacy and value of adjacent permitted uses. Regulations are prescribed for the location and type of various screening devices to be used when required in the various zoning districts or in this section in accordance with the following standards. Screening regulations are required only when a full site plan review is required (see nonresidential and multifamily development, article III of chapter 62).

(b) *Location of required screening:*

(1) When it is determined that a zoning district sides or backs upon a non-compatible zoning district, a solid screening wall or fence shall be erected along the property line, and within the property with the higher intensity zoning district. The screening requirements shall be observed at the time of rezoning and/or construction, or upon a change in use of the property where the screening shall be imposed. The purpose for the screening is to provide a visual barrier between the properties. The owner of such property shall be responsible for and shall build the required wall or fence. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence. Screening standards shall be in accordance with the following:

- a. Screening required in the I, Industrial District when siding or backing on to R, Retail, C-1, Office, MU-2, Mixed Use and all Residential Districts;
- b. Screening required in the C, Commercial District when siding or backing on to C-1, Office District and all Residential Districts;
- c. Screening required in the R, Retail and C-1, Office Districts when siding or backing on to all Residential Districts;
- d. Screening required in the MF, Multiple-Family District when siding or backing on to all other Residential Districts of less intensity (RD-7, RD-5, MU-1);
- e. Screening required in all nonresidential districts when adjacent to a detached dwelling residence located within an A-O, Agriculture-Open District and no farther than 100 feet from the nonresidential district boundary;
- f. Screening required in all nonresidential developed tracts of land within or adjacent to an existing detached dwelling unit residential development.

(2) In any district where loading areas are visible from a public street, screening shall be provided adjacent to the loading area along the street, allowing for required landscaping.

These standards shall be imposed except where such use was in existence at the date of the original adoption of the zoning ordinance (December 11, 1989).

(3) Where permitted, open storage must be screened when visible from any public right-of-way, allowing for required landscaping. An open storage permit may be granted by the site development review committee for any exceptions to screening and/or landscaping requirements. A person who violates any section of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine not exceeding \$2,000.00 per occurrence in accordance with section 1-14.

(4) Dumpsters, not including containers 300 gallons or smaller, shall be placed on concrete dumpster pads six inches in thickness, 15 feet in width and 12 feet in depth. The pad shall be screened with a six-foot fence on three sides with the fourth side remaining open for access or being fitted with a gate matching the screening on the other three sides.

(5) Where screening is required, the following standards shall be observed:

a. Materials approved for use in screening fences are solid wood (not including plywood, particleboard, or similar composite), masonry (brick or stone), or a combination solid wood and masonry. Corrugated metal or fiberglass panels shall not be used as fence materials. Screening shall be provided that completely blocks the view of materials, commodities, or equipment stored. All screening materials shall be finished on the sides facing public rights-of-way. Other types of screening devices may be approved by the planning and zoning commission.

b. Landscaping may be used for screening if the plant materials used are a minimum of four feet tall at the time they are planted. Any plant materials used for screening purposes shall be of an evergreen nature and shall be of sufficient height and type to completely block the view of materials, commodities or equipment stored from adjacent public rights-of-way or property. Any time that plant materials are used for screening purposes, the developer shall post a cash bond to be held in escrow by the city to cover replacement of plant materials. The amount of such bond shall be determined by the city planner or his or her designee. The bond shall be effective for two growing seasons from the time of the initial planting; any excess funds remaining from such bond shall be returned at the end of such period to the developer.

c. When screening is required to separate a detached dwelling residential district (RD-7, RD-5, MU-1) from either the MF, Multiple-Family or a nonresidential district, or when screening is required to separate nonresidential development from detached dwelling residential development, any fence or wall shall be not less than six feet or exceed eight feet in height above the grade of the adjacent property.

d. Along the property line between nonresidential districts, or on property adjacent to loading areas, open storage and refuse areas, where screening is required, a minimum six foot high uniform screening shall be provided.

(6) In any residential district, the maximum height of any fence or wall in a required front setback of a detached dwelling unit, townhouse, duplex, or patio home lot, shall be as provided:

- a. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed 36 inches in height when placed a distance of 25 feet or less from the adjacent paved street surface.
  - b. Fencing, screening walls or the combination of berms and fences or screening walls shall not exceed six feet in height when placed a distance of more than 25 feet from the adjacent paved street surface.
- (7) Where a fence is erected to the rear of the minimum required front setback line, the fence shall not exceed eight feet in height above the grade of the adjacent property.
- (8) A wall or fence, not less than 54 inches in height, with a self-latching gate at all entrances, shall enclose a swimming pool area or surrounding yard area.
- (c) *Maintenance of screening fences.* Any screening fence erected under the provisions of section 130-36 shall be maintained by replacing or repairing any dead, loose, damaged, or missing fencing materials within 30 days after notification by the zoning official.



## **Section 130-38. Platting property not permanently zoned.**

(a) The planning and zoning commission of the city shall not approve any plat of any subdivision within the city limits of the city until the area covered by the proposed plat shall have been permanently zoned by the city council of the city. A plat may be approved on land with the Agricultural-Open District designation if the proposed use of the property is determined to be the permanent use of the property.

(b) The planning and zoning commission of the city shall not approve any plat or any subdivision within any area where a petition or ordinance for annexation or a recommendation for annexation to the city is pending before the city council unless and until such annexation shall have been approved by ordinance by the city council.

(c) In the event the city council cannot schedule a public hearing on a proposed annexation, the planning and zoning commission, at its discretion, may hold a public hearing on the permanent zoning that is to be given to the area or tract to be annexed. The planning and zoning commission may make a recommendation on both the annexation and zoning to the city council so that the city council can, if it desires, act on the annexation with input from the planning and zoning commission regarding appropriate zoning. Zoning may not be placed on any property until the annexation ordinance has officially been adopted.

(d) Refer to chapter 110, and the extraterritorial jurisdiction (ETJ) policy for platting requirements within the city's ETJ.

## **Section 130-39. Classification of new and unlisted uses.**

It is recognized that new types of land use will develop and forms of land use not presently anticipated may seek to locate in the city. These may not be specified as a permitted use in any zoning district. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use shall be made as follows:

- (1) The planning services division shall refer the question concerning any new or unlisted use to the planning and zoning commission requesting an interpretation as to the zoning classification into which such use should be placed. The referral of the use interpretation question shall be accompanied by a statement of facts listing the nature of the use and whether it involves dwelling activity, sales, processing, type of product, storage, anticipated employment, and transportation requirements likely to be generated and the general requirements for public utilities such as water and sanitary sewer.
- (2) The planning and zoning commission shall consider the nature and described performance of the proposed use and its compatibility with the uses permitted in the various districts and determine the zoning district or districts within which such use is most similar and should be permitted.
- (3) The planning and zoning commission shall forward its findings and recommendations to the city council as to the classification proposed for any new or unlisted use. The city council shall by resolution approve the recommendation of the planning and zoning commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. After such resolution, if a zoning change is required, the process specified in section 130-43 shall be followed.
- (4) Standards for new and unlisted uses may be interpreted as those of a similar use. When determination of the minimum requirements cannot be readily ascertained, the same process outlined in subsections (1), (2), and (3) of this section shall be followed for determination of the new standards.

## **Section 130-40. Nonconforming uses and structures.**

(a) *Intent of provisions:*

- (1) Within the districts established by this chapter or amendments thereto, there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this chapter was enacted, amended or otherwise made applicable to such lots, structures or uses, but which do not now conform to the regulations of the district in which it is located. It is the intent of this chapter to permit such nonconforming uses and structures to continue, under regulations herein contained, until the same are removed.
- (2) It is further the intent of this chapter that nonconforming uses shall not be enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses prohibited elsewhere in the same district except for any existing or approved municipal services support facilities.
- (3) Nonconforming uses are hereby declared to be incompatible with the permitted uses in the districts involved.

(b) *Nonconforming status.* Any use or structure which does not conform with the regulations of the zoning district in which it is located shall be deemed a nonconforming use or structure when:

- (1) Such use or structure was in existence and lawfully operating at the time of the passage of the ordinance on February 12, 1990, and has since been in regular and continuous use;
- (2) Such use or structure is a lawful use at the time of the adoption of any amendment to this chapter but by such amendment is placed in a district wherein such use is not otherwise permitted and has since been in regular and continuous use; or
- (3) Such use or structure was in existence at the time of annexation to the city and has since been in regular and continuous use.

(c) *Continuing lawful use of property and existence of structures:*

- (1) The lawful use of land or lawful existence of structures at the time of the passage of this chapter, although such do not conform to the provisions hereof, may be continued; but if said nonconforming use or structure is discontinued or abandoned, any future use of said premises shall be in conformity with the provisions of this chapter unless conformity is not in the public interest as determined by the zoning board of adjustment.
- (2) A nonconforming use, when such nonconforming use of land or structure ceases to be used in such manner for a period of 12 months, shall not be resumed and proof of such event constitutes prima facie evidence of discontinuance or abandonment. Any nonconforming uses which do not involve a permanent type of structure or operation, including manufactured housing, and which are moved from the premises shall be considered to have been abandoned. (See exception in section 130-40.) Nonconforming uses which do involve a permanent type of structure or operation shall not be considered abandoned if one or more of the following conditions are met:
  - a. The property has been advertised for sale or lease and actively marketed;
  - b. The premises has been advertised for sale or lease and actively marketed;
  - c. All licenses, permits, or certifications required for operation have been kept current since the effective date of the ordinance from which this chapter is derived.

(3) No nonconforming use or structure may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of the ordinance from which this chapter is derived except as provided in section 130-39. These provisions apply to any owner or subsequent owner of a nonconforming use as authorized herein.

(4) In those districts where mobile/manufactured homes are considered nonconforming structures, but detached dwellings are a permitted use, an owner of a nonconforming mobile/manufactured home may replace a nonconforming mobile home destroyed by fire, the elements, or other cause, with another mobile home of equal or less square footage.

(d) *Changing nonconforming uses:*

(1) Any nonconforming use may be changed to a conforming use, and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(2) Where a conforming use is located in a nonconforming structure, the use may be changed to another conforming use by securing a certificate of occupancy from the chief building official.

(3) A nonconforming use may be changed to another nonconforming use provided that adverse impacts (such as more traffic, noise, vibration, etc.) are not increased.

(e) *Extension of nonconforming uses.* A nonconforming use may be expanded by the board of adjustment in accordance with the following:

(1) A nonconforming use located within a structure may be extended throughout the structure.

(2) No structural alteration may be made on or in the building except those required by law to preserve such building in a structurally sound condition.

(3) The number of dwelling units or rooms in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units or rooms existing at the time said use became a nonconforming use.

(4) No nonconforming use within a structure may be extended to occupy any land outside the structure.

(5) No nonconforming use of land or structure shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the land became a nonconforming use, except to provide off-street loading or off-street parking space.

(f) *Restoration of nonconforming structure:*

(1) If a structure occupied by a nonconforming use is destroyed by fire, the elements, or other cause, it may not be rebuilt except to conform to the provisions of this chapter. In the case of partial destruction of a nonconforming use structure not exceeding 60 percent of its total appraised value as determined by the Brazos County Central Appraisal District, reconstruction will be permitted, but the existing square footage or function of the nonconforming use cannot be expanded.

(2) If a structure is nonconforming but the use is conforming to the respective zoning district and the structure is completely destroyed, the structure shall be rebuilt to conform to the provisions of the zoning district wherein it is located.

(3) A structure housing a nonconforming use may be remodeled as long as the size (square footage) of the structure is not increased.

(g) *Completion of structures.* Nothing herein contained shall require any change in the plans, construction, or designated use of:

(1) A building or structure for which a building permit has been issued or a site plan approved prior to the effective date of these zoning regulations; or

(2) A building or structure for which a substantially complete application for a building permit was accepted by the chief building official on or before the effective date of these regulations;

provided, however that such building permit shall comply with all applicable ordinances of the city in effect on the date such application was filed and the building permit is issued within 120 days of the effective date of these regulations.

(h) *Licensed mobile home parks.* Mobile home parks licensed according to chapter 74, prior to the adoption of the ordinance from which this chapter is derived shall be allowed to continue as long as the site area and number of units approved in said license is not exceeded. Lapse of said license shall be considered as abandonment of a nonconforming use as stated in subsection (b) and (c) of this section.

## **Section 130-41. Zoning board of adjustment.**

(a) *Creation.* There is created a board known as the zoning board of adjustment (ZBA) of the city.

(b) *Members and terms of office.* The board of adjustment shall consist of five regular members and two alternate members who shall be appointed by the city council in accordance with V.T.C.A., Local Government Code §§ 211.008--211.011, as amended, to serve for two years staggered terms or until their successors are duly appointed.

(c) *Appointment of members.* The city council shall appoint members to the zoning board of adjustment as specified by the city council adopted policy on the board and commission appointments.

(d) *Authority of board.* The zoning board of adjustment shall have the authority, subject to the standards established in V.T.C.A., Local Government Code §§ 211.001--211.011, and those established herein, to exercise the following powers and perform the following duties:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.

(2) To permit the reconstruction, extension, or enlargement of a building occupied by a nonconforming use or building, on the lot or tract occupied by such a building, in accordance with the standards in section 130-39 of these regulations, provided such activity does not prevent the return of such property to a conforming use.

(3) To authorize in specific cases a variance from the requirements of the zoning ordinance, subject to limitation set forth in the ordinance, if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

(e) *Limitations on authority of board:*

(1) The board may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought.

(2) The board shall have no power to grant or modify conditional use permits authorized under section 130-32 of these regulations.

(3) The board shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the planning and zoning commission or the city council, the board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment.

(4) The board shall not grant a request for any variance to any parcel of property or portion thereof upon which a site plan, preliminary plat, or final plat, where required, has not been finally acted upon by both the planning and zoning commission and, where required, by the city council.

(f) *Variances:*

(1) The zoning board of adjustment may grant a variance from a requirement of the zoning ordinance, if it makes written findings that:

- a. The requirement does not allow for a reasonable use of the property;
- b. The hardship for which the variance is requested is owing to a special condition inherent in the property itself, such as restricted area, shape, topography or physical features;
- c. The special condition is unique to this property and is not generally characteristic of other parcels of land in the area; and
- d. Development under the variance does not:
  1. Alter the character of the area adjacent to the property;
  2. Impair the use of adjacent property that is developed in compliance with the city requirements; or
  3. Impair the purposes of the regulations of the zoning district in which the property is located.

(2) A variance may not be granted to relieve a self created or personal hardship, nor for financial reasons only, nor may a variance be granted to permit any person a privilege in developing a parcel of land not permitted by this chapter to other parcels of land in districts with the same zoning classification.

(3) The applicant bears the burden of proof in establishing the facts justifying a variance.

(g) *Procedures:*

(1) *Application and fee.* An application for action, by the board of adjustment, other than an appeal, shall be in writing using forms provided by the city and shall be accompanied by a fee established by the city to cover administrative processing costs.

(2) *Notice and hearing.* The zoning board of adjustment shall hold a public hearing on each application for action or appeal. This public hearing shall be held no later than the second scheduled meeting after the application is filed in accordance with the rules adopted by the board and the provisions of this chapter. Notice of a public hearing shall be provided to all property owners within 200 feet of the affected property ten days prior to the public hearing.

(3) *Appeals.*

- a. An appeal may be taken from the decision of an administrative zoning official by an applicant for the permit on which the decision is rendered, by any person or persons aggrieved by the decision or by any officer, department, board or bureau of the municipality affected by the decision.
- b. The appellant must file with the board and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal within 15 days after the decision has been rendered as determined by the rules of the board. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record of the action that is appealed.
- c. An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the board facts supporting the official's opinion that a stay would cause imminent peril to life or property. In that case, the proceedings may be stayed only by a restraining

order granted by the board or a court of record on application, after notice to the official, if due cause is shown.

d. The appellant party may appear at the appeal hearing in person or by agent or attorney.

e. The board shall decide the appeal within a reasonable time. The board may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and make the correct order, requirement, decision, or determination and for such purpose the board has the same authority as the official.

(4) *Vote required for board decisions.* The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these zoning regulations, or to effect any variance to the zoning regulations granted by the board.

(5) *Judicial review.* Any person or persons, jointly or severally, aggrieved by a decision of the zoning board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the city may present to a district court, county court, or county court at law a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented within ten days after the date the decision is filed in the board's office.



## **Section 130-42. Changes and amendments to zoning ordinance, districts and administrative procedures.**

(a) *Declaration of policy.* The city declares the enactment of these regulations governing the use and development of land, buildings, and structures as a measure necessary to the orderly development of the community. Therefore, no change shall be made in these regulations or in the boundaries of the zoning districts except:

- (1) To correct any error in the regulations or map;
- (2) To recognize changed or changing conditions or circumstances in a particular locality or area;
- (3) To recognize changes in technology, the style of living, or manner of conducting business.

(b) *Authority to amend the zoning ordinance.* The city council may from time-to-time, after receiving a final report thereon by the planning and zoning commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts. Any ordinance may be ordered for consideration by the city council, be initiated by the planning and zoning commission, or be requested by the owner of real property, or the authorized representative of an owner of real property. In no case shall the city council act upon any zoning request prior to action by the planning and zoning commission. Consideration for a change in any district boundary line or specific zoning regulation may be initiated only with written consent of the property owner, or by the planning and zoning commission or the city council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the city records are different, the applicant shall submit proof of ownership.

### *(c) Residential Neighborhood Conservation District Rezoning*

- (1) Property owners may make application to the City Council for a city initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision presently zoned Residential District -7000 (RD-7) or Residential District 5000 (RD-5) to Residential Neighborhood Conservation District (R-NC).
- (2) An application for a city initiated rezoning of an entire platted residential subdivision or a single phase/section of a platted residential subdivision from Residential District -7000 (RD-7000) or Residential District-5000 (RD-5000) to a Residential Neighborhood Conservation District (R-NC) must include the Residential Neighborhood Conservation District Rezoning Petition Verification Response Form. This Petition must be sent via regular mail to 100% of the lot of record owners listed within Brazos County Appraisal District Tax Rolls. All returned Petition Verification Response Forms shall contain signatures that shall be notarized, regardless of whether the vote cast is a yes or no. No signature affixed to the Petition more than 180 days prior to the date of filing the Petition with the City Secretary shall be counted. Each lot of record shall have one vote regardless of the number of owners listed in the Brazos County Appraisal District Tax Rolls. The agent representing the platted subdivision or platted phase of a subdivision shall file a notarized affidavit to attest all Petition Verification Response Forms were mailed to the last known owner(s) as listed in the Brazos County Appraisal District Tax

Rolls. The Residential Neighborhood Conservation District Rezoning Petition Verification Response Form and Affidavit Form may be obtained at the office of Development Services.

- (3) At least 51% of the land area in the proposed Residential Neighborhood Conservation District must be presently improved as identified by the Brazos County Appraisal District (BCAD), and an affirmative vote of the owners of at least 66% of the lots of record within the platted subdivision or within a single phase/section of a platted subdivision shall be required for the Planning and Zoning Commission to take up consideration of the proposed rezoning.
  - (4) The completed rezoning application and Petition Verification Response Forms shall be submitted to the City Secretary. The City Secretary shall examine the rezoning application and ascertain whether it is sufficient under Sections 130-41(C)(2) and (3) and shall attach to the Petition Verification Response Forms the City Secretary's certificate showing the result of the examination. If the certificate shows the rezoning application is insufficient, the rezoning application may be amended within ten (10) days from the date of the certificate, after which time the city secretary shall examine the amended rezoning application. If the City Secretary's certificate shows the amended rezoning application to be insufficient, it shall be returned to the person filing and a new petition for the same subdivision or phase/section shall not be submitted for a period of 180 days. If the rezoning application is found to be sufficient, the City Secretary shall submit the rezoning application to Planning and Zoning Commission without delay.
  - (5) If rezoned to a Residential Neighborhood Conservation District, the permitted uses of the property shall be determined and controlled by the use regulations set forth for in Section 130-31, Residential Neighborhood Conservation District (R-NC) classification.
- (d) *Application for zoning or amendment.* Each application for zoning or for an amendment or change to the existing provisions of this chapter shall be made in writing on a form suitable to the planning services division and shall be filed with the city and shall be accompanied by payment of the appropriate fee to be charged by the city for administering the zoning application.
- (e) *Public hearing prior to making report.* Prior to making its report to the city council regarding a proposed zoning change, the planning and zoning commission shall hold at least one public hearing on each application. Written notice of all public hearings on proposed changes in district boundaries shall be sent to all owners of property, or to the person rendering the same for city taxes, located within the area of application and within 200 feet of any property affected thereby, within not less than ten days before such hearing is held. Such notice may be served by using the last known address as listed on the latest approved tax roll and depositing the notice, postage paid, in the United States mail. Although a public hearing must be held by the commission to consider amendments to the text of this chapter which do not change zoning district boundaries, published notice or written notification to individual property owners is not required prior to such hearing.

(f) *Failure to appear.* Failure of the applicant or his or her representative to appear before the planning and zoning commission or the city council for more than one hearing without an approved delay shall constitute sufficient grounds for the planning and zoning commission or the city council to terminate or deny the application.

(g) *Commission consideration and report.* The planning and zoning commission, after a public hearing is held to receive input from interested parties and closed, shall prepare its report and recommendations on the proposed change stating its findings, and evaluation. The planning and zoning commission may defer its report for not more than 90 days from the time it is posted on the agenda until it has had opportunity to consider any other proposed changes which may have a direct bearing thereon. In making its determination, the planning and zoning commission shall consider the following factors:

- (1) Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the city as a whole.
- (2) Whether there is availability of water, wastewater, stormwater, and transportation facilities generally suitable and adequate for the proposed use.
- (3) The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the city, and any special circumstances which may make a substantial part of such vacant land unavailable for development.
- (4) The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
- (5) How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
- (6) Any other factors which will substantially affect the health, safety, morals, or general welfare.

(h) *Reasons for denial.* If the planning and zoning commission or the city council deny a zoning request, it shall offer reasons to the applicant for the denial. The city council shall not hold a public hearing until it receives a final report and action from the planning and zoning commission unless a joint public hearing is held.

(i) *City council consideration:*

- (1) *Proposal recommended for approval by the commission.* Every proposal which is recommended for approval by the planning and zoning commission shall be automatically forwarded to the city council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- (2) *Proposal recommended for denial by the commission.* When the planning and zoning commission determines that a proposal should be denied, it shall so report and recommend to the city council and notify the applicant. If the commission recommends denial, the request shall not be forwarded to the city council unless the applicant so requests or the request is sent for review by the commission by simple majority vote. A request which has received a recommendation for denial from the planning and zoning commission or has been denied by the city council may be resubmitted at any time for

reconsideration by the city (a new filing fee must accompany the request). The city council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the city for six months from the original date of denial.

(3) *City council hearing and notice.* Notice of the city council hearing shall be given in the official newspaper of the city, stating the time and place of such hearing, at least 15 days prior to the date of public hearing.

(4) *Three-fourths vote.* In the event a protest to a proposed change to a zoning regulation or district boundary is filed with the city secretary, duly signed and acknowledged, by the owners of either:

a. Twenty percent or more of the area of the lots or land covered by the proposed change; or

b. By twenty percent or more of the area of the lots or land immediately adjoining the area covered by the proposed change and extending 200 feet from such area, such amendments shall not become effective except by affirmative vote of three-fourths of the city council.

In computing the percentage of land area under this subsection, the area of streets and alleys shall be included. In measuring the distance under subsection (h)(4)b. of this section, for lots opposite the subject property, the distance shall run from the street frontage of such opposite lots.

(j) *Final approval and ordinance adoption.* Upon approval of the zoning request by the city council, the applicant shall submit a metes and bounds description of each zoning district to the city within 30 days for the preparation of the amending ordinance. The amending ordinance shall be approved within six months. If the amending ordinance is not approved within six months, the zoning request, at the option of the city council may be recalled for a new public hearing. The zoning change shall not be effective and official until the amending ordinance is signed by the mayor and the city secretary under authority of the city council.

## **Section 130-43. Certificates of occupancy and compliance.**

(a) *Certificates of occupancy shall be required for any of the following:*

- (1) Occupancy and use of a building hereafter erected or structurally altered;
- (2) Change in use of an existing building to a use of a different classification;
- (3) Occupancy and use of vacant land, except agricultural use;
- (4) Change in the use of land to a use of a different classification;
- (5) Any change in the use of a nonconforming use.

No such use, or change of use, shall take place until a certificate of occupancy has been issued by the chief building official and approved by planning services.

(b) *Procedure for new or altered buildings.* Written application for a certificate of occupancy for a new building or for an existing building which is to be altered shall be made at the same time as the application for the building permit for such building. Said certificate shall be issued within ten days after a written request for the same has been made to said chief building official or his or her agent after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter.

(c) *Procedure for vacant land or a change in building use.* Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or a building, or for a change in a nonconforming use to a conforming use, as herein provided, application for certificate of occupancy shall be made to said chief building official for review on forms available in the chief building inspector's office. If the proposed use is in conformity with the provisions of this chapter, the certificate of occupancy shall be issued within ten days after the application for same has been made.

(d) *Contents.* Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provision of the building and fire laws and ordinances. A record of all certificates of occupancy shall be kept on file in the office of the chief building official or his or her agent and copies shall be furnished upon request to any person having proprietary or tenancy interest in the building or land affected.

(e) *Temporary certificate.* Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued by the chief building official for a period not exceeding six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the city relating to the use or occupancy of the premises or any other matter covered by this chapter.

(f) *Nonconforming uses.* A record shall be required for all nonconforming uses of land or buildings created by adoption of the ordinance from which this chapter is derived. All known nonconforming uses created by this chapter shall be identified on a city map and filed in the planning services division. No certificate of occupancy shall be granted for any property designated on this map until such use is reviewed and approved in accordance with section 130-39.

## **Section 130-44. Preserving rights in pending litigation and violations under other existing ordinances.**

By the passage of this chapter, no presently illegal use shall be deemed to have been legalized unless specifically such use falls within a use district where the actual use is a conforming use. Otherwise, such uses shall remain nonconforming uses where recognized. It is further the intent and declared purpose of this chapter that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time this zoning ordinance was enacted and adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending proceeded with in all respects as if such prior ordinance had not been repealed.

## **Section 130-45. Penalty for violations.**

Any person or corporation violating any of the provisions of this chapter shall, upon conviction, be fined any sum not exceeding \$1,000.00 for each and every day that the provisions of this chapter are violated and each violation shall constitute a separate and distinct offense. In addition to the said penalty provided for, the right is hereby conferred and extended upon any property owner owning property in any district, where such property owner may be affected or invaded, by a violation of the terms of the ordinance, to bring suit in such court or courts having jurisdiction thereof and obtain such remedies as may be available by law and equity in the protection of the rights of such property owners.

## **Section 130-46. Validity.**

If any section, paragraph, subdivision, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

## **Section 130-47. Planned development districts.**

The planned development districts of the city approved in accordance with the provisions of this chapter in its original form, or by subsequent amendments thereto, shall be referenced on the zoning district map and shall be on kept file in the office of the city planner or his or her designee.